Ombudsman Manitoba

1985
ANNUAL REPORT
OF THE OMBUDSMAN

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Ombudsman Manitoba

Sixteenth Annual Report of the

OMBUDSMAN

For the period
January 1st, 1985 -
December 31st, 1985

Presented to the Legislature pursuant
to Section 42 of The Ombudsman Act

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The Honourable Myrna Phillips
Speaker of the Legislative Assembly
Province of Manitoba

Dear Ms. Speaker:

In accordance with Section 42 of The Ombudsman Act, I am pleased to submit the sixteenth Annual Report of the Ombudsman for the calendar year January 1, 1985 to December 31, 1985.

Yours very truly,

Gordon S. Earle

GORDON S. EARLE
OMBUDSMAN

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Introduction

The year 1985 was a record year for the Office of the Ombudsman with the caseload soaring to its highest peak since the creation of the office in 1970. The total number of formal (written) complaints received was 858 and that combined with 1,826 informal (telephone or counter inquiries) gave a grand total of 2,684 concerns dealt with during the calendar year. This increase of 602 cases over the previous year represents a 6% increase in formal cases, a 43% increase in informal cases, and a 29% increase in overall workload.

Usually when one reports an increase in workload one is asked to explain why an increase has taken place. The government may want to know because they may feel that an increase in complaints reflects poorly upon their administration. The opposition may want to know because they may feel that an increase in complaints provides an opportunity to be critical of government administration. The media may want to know because reporters may feel an increase in complaints may be the basis for a sensational news story. In fact, various segments of the public may, for different reasons, want to know why there has been an increase in the number of complaints to the Ombudsman's Office. While there may in fact be several reasons for an increased workload — for example, a greater awareness on the part of the public regarding the function of the Ombudsman; increased referrals by public servants, Members of the Legislative Assembly and others; implementation of new and expanded programs by government departments, hence bringing about more contact by government officials with members of the public; the advent of an election, which always seems to bring about more activity in the complaint department — whatever the reason might be the Ombudsman and his staff are not overly concerned with the reason for the increase, but rather the Ombudsman and his staff are faced with the stark reality of the extra work and despite heavy caseloads we must constantly strive to provide the best service possible to the public. While, during the past year, there have been some cases which have dragged out much longer than we would have liked, generally speaking my staff have applied themselves with devotion and integrity, maintaining the high standards of performance that have been set for this office.

Staff of the Ombudsman's Office

In previous reports the names of staff persons and their respective positions have always been listed. In this report I shall spend some time describing the various positions in my office and the duties and responsibilities of positions so that the public may have an understanding of the teamwork that is involved in enabling our office to fulfill its obligations under The Ombudsman Act.

Secretaries

We have two Administrative Secretaries with our office. Although the major function of these secretaries is to provide important and necessary administrative support services in the way of clerical and typing duties, the work of our secretaries is by no means limited to such duties. Our secretaries are, in most cases, the first line of contact the public has with our office — in that the secretaries answer the phone, receive people who drop in the office, and open and initially process all correspondence to our office, including letters of complaint. Because of this our secretaries must be skilled in receiving, and relating to the public; they must have excellent knowledge of the jurisdiction and function of our office in order to answer initial inquiries; they must possess excellent knowledge of the community and social service structure, government departments, agencies and programs in order to make appropriate referrals, if necessary; and, of course, they must be able to relate well within the office to the rest of our staff in order to facilitate smooth and effective communication within the team. What happens on the very first contact that the public has with our office is crucial in setting the tone for the communication or investigation that follows and our office places a high degree of importance upon our secretarial staff. During the past year my two secretaries carried out their function in a commendable manner and I sincerely thank them for their efforts.

Administrative Secretaries — Karen Sacher
— Lorna Bardarson

Office Manager

The position of Office Manager is a new position which was established during the year for the purpose of providing overall management of the administrative support services. The Office Manager supervises our secretarial staff in their office administration duties and public contact responsibilities. As well, our Office Manager performs the function of intake officer for our office, analyzing incoming inquiries or complaints received, by telephone or in person, from the public to determine whether the matter falls within the jurisdiction of the Ombudsman. This involves seeking a clear understanding of the concerns presented or the information requested to determine the appropriate action. As intake officer, the Office Manager, like our secretaries, is often the first line of contact with the public interviewing complainants, recording the details of their concerns to be passed on to the Ombudsman and the investigators, and making appropriate referrals where required. Because of these very important functions the Office Manager, as well as having a high degree of initiative, must have a thorough knowledge of the Ombudsman function and possess the ability to communicate effectively, thereby ensuring a high quality of administrative support services within the office and a high quality of service to the public at large. In November 1985 we were pleased to welcome our Office Manager to this new and challenging position.

Office Manager — Claire Lanouette

Investigators

The Investigators (formerly called Investigative Assistants) are a vital part of the Ombudsman team. The basic function of an investigator is, as the title indicates, to investigate complaints received by the Ombudsman against provincial government departments or agencies. Investigators receive their authority to investigate by way of delegation from the Ombudsman, who under Section 14(1) of The Ombudsman Act delegates to them the investigatory powers of the Ombudsman as well as the protection and powers of a Commissioner appointed under Part V of The Manitoba Evidence Act.

Once a complaint has been assigned to an investigator by the Ombudsman, the work of an investigator involves: reviewing and analyzing the complaint; interviewing persons who may be able to furnish relevant information; reviewing file documentation, statutes, regulations, policies and procedures; meeting with departmental officials to discuss areas of concern; and any other steps necessary to gather information relevant to making a determination on the validity of a grievance. Investigators travel as necessary throughout the province to perform site inspections, conduct interviews and gather documentation.

An important part of an investigator's work is to document and record all information received to ensure that the Ombudsman's files contain everything relevant to the matter under investigation and to ensure that the file contains all necessary information to support the Ombudsman's decisions or recommendations. This involves accurate recording of information obtained by telephone, at meetings or through personal interviews, as well as obtaining copies of relevant material from sources such as departmental files and so forth.

Investigators must prepare and submit to the Ombudsman comprehensive reports on investigations conducted including in these reports their assessment of the problem and, where appropriate, their suggested remedies. As well as reporting to the Ombudsman, investigators must communicate with complainants and departments to ensure that both are informed of the progress of the investigation, and the results of the investigation when concluded. This requires extensive communication by thorough and concise written reports as well as by telephone and personal interviews.

Finally it is important to note that, although the investigators do not have the power to make a formal report and recommendations under The Ombudsman Act, they do nonetheless act as an extension to the Ombudsman. They act, one may say, as the arms and legs of the Ombudsman helping him, through the process of investigation, to fulfill his mandate under the legislation. Consequently investigators, on behalf of the Ombudsman, must establish and maintain effective working relationships with departments and agencies of the provincial government, as well as with others such as federal government departments; private industry; medical, legal and other professions; social service agencies; law enforcement agencies; the court system; and so forth to ensure proper investigations as well as appropriate and effective referrals. Investigators may be called upon to perform public relation functions by participating in speaking engagements, attending conferences and seminars, or other public events as may be required from time to time.

Because of the heavy workload of our office two investigator positions were added to our staff complement during 1985 thereby giving us a total of six investigators including our special investigator for children's concerns whose function is described below. Although the two additional positions were approved in 1985, the effect of these positions will not be fully assessed until the end of the calendar year 1986 because due to the length of time involved in the recruitment process, at the time of writing this report the two new investigators had not been with the office very long — one having commenced work in December 1985, and the other in January 1986. Currently, my investigative staff is as follows:

Investigators: Joy Goertzen
Kris Ramchandar
Beverly Rayburn
Max Regiedzinski
Raymond Wahl

Investigator (Children's Concerns)

In my 1983 and 1984 annual reports I discussed the function of the Ombudsman's Office as it relates to concerns brought forward by, or on behalf of children. I outlined the request that had been expressed by a group of concerned citizens (representing a fairly broad cross-section of the public) that special Ombudsman service be provided to children. I explained the steps that were being taken to meet this request indicating the work our office was doing with children's concerns and emphasizing that if we were to expand upon our services for children we would require an additional staff person. With the addition of the two investigator positions mentioned above, I have now been able to appoint one of my investigators as the Ombudsman's investigator for children's concerns.

The Investigator (Children's Concerns) has a very specialized function, and this specializing of function is a new venture for our office. In the past because of the relatively small size of our office, we could not afford the luxury of having an investigator deal only with one area of concern. However, we feel that because of the public concern over matters involving children, and because of the degree of specialized knowledge and skills required to handle these matters, and because of the ever increasing number of issues involving the well-being of children that are coming to light, specialized service from the Ombudsman's Office is warranted.

The Investigator (Children's Concerns) has basically a three-fold function:

1. to investigate complaints involving children;
2. to monitor provincial agencies and institutions that deal with children; and
3. to conduct a public education and public relations program to make the general public and children in particular aware of our services for children.

When one thinks about investigating complaints involving children, there comes to mind immediately the whole host of problems associated with the child welfare system — problems involving child abuse, the apprehension of children, the attitudes and actions of social workers, adoptions, foster placements, planning for children, custody disputes, child abuse registries, and so forth. These problems involve the child caring agencies, that is, the children's aid societies or the child and family services agencies. As well, the provincial Department of Community Services would be involved since that Department and its Minister has, through the Director of Child and Family Services, the ultimate responsibility of overseeing the well-being of children in our province.

Apart from problems involving the child caring agencies, there are a number of other matters involving children which come to the attention of our Investigator (Children's Concerns) such as: income security matters, student loan problems, problems relating to young offenders under the open custody program, problems involving residents in youth centres, local school problems, difficulties involving day care centres, complaints involving educational programs for the learning disabled, etc. These complaints would involve such departments as the Department of Education, Department of Employment Services and Economic Security, Department of Community Services, Department of Attorney-General, and the Department of Health.

As well as jurisdictional matters involving children there are a lot of matters concerning children which may come to our attention and which fall outside the jurisdiction of the Ombudsman; problems which sometimes involve the court system, the police, local school divisions, private child care centres, internal family problems, etc. In these instances our Investigator (Children's Concerns) provides an attentive ear and attempts to make an appropriate referral.

With respect to the jurisdictional complaints our Investigator (Children's Concerns) has the same powers and protection as the investigators handling the generalized caseload. However, because of the highly sensitive and confidential nature of many of these concerns involving children, our special investigator must be very careful to establish the proper rapport with the agencies and individuals with whom she is dealing. The rapport established must instill a feeling of confidence and respect in those with whom she comes into contact, so that they will willingly share the necessary information and thereby negate the necessity of our office having to resort to the more formal powers available under The Ombudsman Act. I am pleased to say that the work of the Investigator (Children's Concerns) is going well in this regard and generally speaking we have been receiving co-operation from the agencies and departments with which we have been dealing.

While the general process of investigating children's concerns is pretty much the same as the investigation process for other complaints, there is a distinct difference in that the children's concerns are almost always very time consuming; involve very sensitive issues; and are usually crises oriented, thereby demanding immediate attention. In practically all these cases we must keep in mind the physical and emotional well-being of the child.

The investigation usually commences upon receipt of a complaint by a child or on behalf of a child, although an investigation can be, and indeed some are, started on the Ombudsman's own initiative. Although The Ombudsman Act specifies that complaints shall be in writing, an investigation may be started as the result of a phone call or a personal interview, especially if the complaint is an emergency. We do not stand on formality when the best interests of a child are at stake. We may sometimes insist that a complaint be submitted in writing, and where this presents a hardship for an individual, our staff will formalize the complaint in writing if necessary.

After the complaint has been received, our Investigator (Children's Concerns) will contact the agency or department involved, present the complaint and obtain the agency's side of the story. A thorough investigation may follow which would include reviewing the agency's files, interviewing appropriate agency personnel and others who may be in a position to shed light on the matter, and gathering any and all relevant documentation necessary to clarify the issue. If the complaint involves a child caring agency our Investigator (Children's Concerns) will, at the same time as notifying the agency or as soon as conveniently appropriate, notify the provincial Director of Child and Family Services (formerly called the Director of Child Welfare) of the complaint. This is basically because of the overall responsibility which the Director has for these agencies, as well as the fact that any formal recommendation made by the Ombudsman to a particular agency might well have ramifications for the entire child and family services system.

It is perhaps worth noting at this point that with respect to complaints involving the child and family services system (child welfare system) the Ombudsman has in the past utilized two options of investigation — one being to refer matters to the Director of Child Welfare for investigation and monitor or follow-up the Director's investigation, and the other being to investigate matters directly with the agencies advising the Director of our involvement and the outcome of our investigation. Whether we used the first option or the second option was determined by such factors as the emergency of the situation, i.e. whether there was serious and imminent danger to the well-being of a child; the availability of the Directorate to conduct an immediate and thorough investigation; whether the Director or his staff had had any involvement in the case; and also whether the complaint was against a child caring agency or against the Department (Community Services) or its Directorate.

Whether we investigated a complaint directly or whether we requested the Director of Child Welfare to investigate, our underlying philosophy was that under The Child Welfare Act the Director had the ultimate responsibility for ensuring the well-being of children in our province. The legislation applicable in 1985, The Child Welfare Act, stated that a Director of Child Welfare shall be appointed to administer and enforce the provisions of the Act under the control and direction of the Minister, and that the Director has the authority to ensure the development and maintenance of standards of child welfare in Manitoba. Hence the Director and Minister of Child Welfare were always made aware of any formal recommendation of the Ombudsman, whether the recommendation emanated from a direct investigation by our office, or from a monitoring by our office of an investigation undertaken by the Directorate.

The new legislation, The Child and Family Services Act, which became effective March 1, 1986 seems to place even more emphasis on the ultimate responsibility of the Director (now called the Director of Child and Family Services) for ensuring the well-being of children in our province and for the resolution of problems involving the administration of the child and family services system. Under the legislation it is stated as one of the duties of the Director that he **shall** receive and hear complaints from any person affected by the administrative actions of an agency, and he has the power to establish boards for the hearing of such complaints. Also the Director has the discretionary power to conduct enquiries and carry out investigations with respect to the welfare of any child dealt with under The Child and Family Services Act.

With the direct and more mandatory role of receiving and hearing complaints the Directorate has begun formalizing, in accordance with the Act and regulations, appeal and review procedures for various acts and decisions of child care agencies and personnel. With these various procedures in place and with individuals having access to the Director to receive and hear their complaints, the Ombudsman will be interceding less often in a direct way, but will be referring people to and monitoring the appeal mechanisms; and, of course, the Ombudsman will remain as an avenue of last resort should individuals experience any difficulties with the review procedures available or should there be a case when the Ombudsman is satisfied that it would be unreasonable to expect the complainant to resort to the appeal procedure.

The second function of the Investigator (Children's Concerns) is to monitor provincial agencies and institutions that deal with children to ensure that children are being cared for properly. This could involve such institutions as the Manitoba Youth Centre, Seven Oaks Youth Centre, Agassiz Youth Centre, Manitoba Adolescent Treatment Centre, Manitoba Developmental Centre, Manitoba School for the Deaf, and so forth. Under The Ombudsman Act, the Ombudsman has delegated powers of investigation to the Investigator (Children's Concerns). These powers include the powers of a Commissioner appointed under Part V of The Manitoba Evidence Act. Section 91 of The Manitoba Evidence Act states:

> *"Commissioner may view premises.*
> *91 The commissioners may enter upon or into, and view and inspect, any land, building, works, or property, if, in their opinion a view thereof will assist in the inquiry; and the view may be had, if deemed necessary to the inquiry, at any time by day or by night."*

The Ombudsman and his staff very seldom have to resort to this very formal method of inspecting. Our office attempts to work on a co-operative basis with departments, agencies, and institutions in order to ensure that individuals are not suffering grievances as the result of maladministration. With respect to children, our Investigator (Children's Concerns) will be arranging, on a co-operative basis, appointments to inspect the various institutions that deal with young people, and to make herself available to hear any concerns of residents or staff of these institutions. While these visits will generally be on a pre-arranged and mutually convenient basis, it should be clearly understood that there may be times when the Investigator (Children's Concerns) may choose, in the best interests of a child or the general public, to utilize the more formal powers of inspection available under the legislation, and if necessary conduct an inspection without notice.

Finally, the Investigator (Children's Concerns) has the responsibility to conduct a public education and public relations program to familiarize the public at large, and children in particular, of the function of the Ombudsman's Office and how our office can be of help in matters involving children. This public awareness program will involve meeting with child caring agencies and officials; participating in seminars and conferences; speaking publicly at schools, colleges, universities, and other places where young people may be gathered; and, as appropriate, using the mass media to promote the work of the Ombudsman's Office as it relates to children.

Although our Investigator (Children's Concerns) started her work in the latter part of 1985, the formal announcement of her appointment to this function took place at a ceremony on February 28, 1986 marking the opening of our new office facilities. I am pleased to report that our Investigator (Children's Concerns) has been performing diligently and admirably in this new position, and I believe, has already made a significant impact upon ensuring the well-being of children in our province.

Investigator (Children's Concerns) — Donna Drever

Assistant Ombudsman

The Assistant Ombudsman assists the Ombudsman in his functions and, in the Ombudsman's absence, acts in the Ombudsman's capacity by way of delegation of authority by the Ombudsman. The Assistant Ombudsman provides direction and supervision of the professional and administrative staff of the office and is responsible for effective and efficient running of the office through personnel management, staff development and budgetary control.

The supervisory role of the Assistant Ombudsman is a very important function and involves directing and overseeing the investigators in the performance of their duties to ensure that investigations are performed to the standard established by the Ombudsman. The Assistant Ombudsman would participate in assigning cases, providing direction, training staff when necessary, reviewing work to ensure that any decisions or recommendations resulting from an investigation are supported by facts, evidence and documentation obtained through the investigation.

As well as performing a supervisory function the Assistant Ombudsman will, from time to time, be assigned the investigation of major cases involving extremely complex, sensitive or highly public issues. In this role the Assistant Ombudsman, like the investigators, has been delegated the appropriate powers and protections of the Ombudsman and performs all the functions outlined above under the section dealing with investigators.

The Assistant Ombudsman, accountable directly to the Ombudsman, is a high level manager who must display a high degree of initiative; have the ability to deal effectively with senior management (Deputy Ministers, executives of Crown corporations, etc.); and exercise tact, discretion and sound judgement. The Assistant Ombudsman, as well as assisting the Ombudsman on the provincial level, also assists the Ombudsman at national and international functions related to the Ombudsman concept.

Assistant Ombudsman — Barry E. Tuckett

Political Independence of the Ombudsman — A Myth or a Reality?

One question that is sometimes asked of the Ombudsman, often by complainants seeking redress to their problems, is, "Are you really politically independent, or can your investigations be subject to political interference?" This question focuses on the topic of the political independence of the Ombudsman. Is the Ombudsman really independent of the political system? The answer surprisingly enough is both "No" and "Yes". No, the Ombudsman is not separate and independent from the political system. The Ombudsman is in fact a creation of the political system. The Ombudsman is an officer of the Legislature carrying out the mandate of the Legislature commissioning him to investigate complaints involving matters of administration by any department or agency of the government. The Ombudsman is accountable to the Legislature for the performance of his function, and hence the Ombudsman is very much a part of the political structure of our society.

However, when the question is asked as to whether the Ombudsman is politically independent, what is really being asked is, "Is the Ombudsman independent of partisan politics?" In other words, is the Ombudsman free from the influence of any particular political party and especially the political party which forms the government. The answer to that questions is, "Yes".

The independence of the Ombudsman from partisan politics is secured in Manitoba in a number of ways, most of which relate to the legislation governing the office. Firstly, under The Ombudsman Act, the Ombudsman is appointed on the recommendation of the Standing Committee of the Assembly on privileges and elections, which is an all-party committee of the Legislature. Hence, all political parties represented in the Legislature have an opportunity to have a say in recommending an Ombudsman for appointment. The practice that has been followed in Manitoba by this all-party committee in seeking candidates for the position of Ombudsman has been to hold an open competition, advertised nationally. This procedure, I believe, is a very fair and a very appropriate method of selecting an Ombudsman, and indeed is one which tends to safeguard the independence of the Ombudsman from partisan politics.

Secondly, the independence of the Ombudsman is enhanced by the term of office which is clearly set forth in the legislation.

> "*Term of office.*
>
> *4(1) Unless he sooner resigns, dies or is removed from office, the Ombudsman shall hold office for six years from the date of his appointment, and a person may be re-appointed for a second term of six years, but not for more than two terms of six years.*"

The term of office is sufficiently long that it cross-cuts elections and it is explicitly spelled out in such a manner that an Ombudsman's work is not affected by elections and changes in government.

Thirdly, the removal or suspension of the Ombudsman can only take place on a resolution of the Legislative Assembly carried by a vote of two-thirds of the members of the assembly voting on the matter. Although at any time the Legislature is not in session, the Lieutenant Governor in Council may suspend the Ombudsman for disability, neglect of duty, misconduct or bankruptcy, the suspension shall not continue in force beyond the end of the next ensuing session of the Legislature. In other words, the Legislature, not the government, must ultimately deal with any matter involving the suspension or removal of the Ombudsman, and this again ensures the non-partisan nature of the Ombudsman.

A fourth safeguard of the Ombudsman's independence is found in the accountability and reporting provisions of the legislation. The Ombudsman is an officer of the Legislature and is not eligible to be nominated for, elected as, or sit as a member of the assembly. The Ombudsman shall not hold any other public office or carry on any trade, business or profession. It is important to note that the Ombudsman, as an officer of the Legislature, is accountable to the Legislature, not the government of the day, and reports annually to the assembly through the Speaker on the exercise and performance of his functions and duties under The Ombudsman Act. This direct accountability to the Legislature through the Speaker shields the Ombudsman from partisan politics.

Some people have argued that while the Ombudsman may be theoretically free from partisan political influence, on the practical side of things the work of the Ombudsman's Office can be stymied by budgetary restrictions in that ultimately the government has the final say with respect to budget matters. While it is basically true that the government has ultimate responsibility for fiscal management (that being one of the responsibilities of a government in a democratic society) it is important to note that the Ombudsman's budget is first submitted to an all-party committee of the Legislature (the Legislative Assembly Management Commission) and it is the responsibility of that committee to work with the Ombudsman and recommend to government the amount of budget and staff required by the Ombudsman to adequately fulfill his responsibilities under The Ombudsman Act. So again we see that the work of the Ombudsman is protected from the potential of government or partisan influence and each political party has an opportunity to express its view with respect to the budgetary requirements of the Ombudsman's Office.

Finally, the independence of the Ombudsman is given a very broad base by Section 43 of The Ombudsman Act which reads as follows:

> "*Publication of reports.*
>
> *43 In the public interest, or in the interest of a person, department of agency of the government, the Ombudsman may publish reports relating generally to the exercise and performance of his functions and duties under this Act or to any particular case investigated by him, whether or not the matters to be dealt with in the report have been the subject of the report made to the assembly under this Act.*"

This section of The Ombudsman Act extends the accountability of the Ombudsman beyond his accountability to the Legislature to an accountability to the very public that elected the Legislature. The Ombudsman, through this section of the Act, can account to the public for the performance of his duties and can also evoke public support for matters which he may have brought to the attention of government and even to the Legislature, and which may yet remain unresolved. Hence we can see that through this section of The Ombudsman Act, the Ombudsman has a very powerful mechanism to maintain political independence.

Having gone to some length to point out the political independence of the Ombudsman, I think it is important for me to express my view that such political independence and non-partisan activity must apply not only to the Ombudsman but also to the staff of the Ombudsman's Office. From the description I presented earlier of the functions and duties of each member of the Ombudsman team, you can see where each staff person is in effect an extension of the Ombudsman assisting and facilitating the accomplishment of the Ombudsman's task. Members of the public, when presenting concerns to the Ombudsman's Office for investigation, must feel confident that their concerns will be investigated in an objective and impartial manner and without regard for partisan politics. Likewise departmental and governmental officials, when presented with formal recommendations from the Ombudsman, must feel confident that these recommendations are based upon an impartial, objective investigation free from partisan politics.

Some people may argue that the Ombudsman himself is ultimately accountable for everything that emanates from his office whether he has been personally involved or not and therefore it is really the political neutrality of the Ombudsman that matters and not the activities of his staff. While I agree with the first part of this statement, I do feel that although some people may form an opinion of the office and its objectivity on the philosophy and character of the Ombudsman himself, a good number of people, if not the majority, will form its opinion of the office on the basis of their assessment of the particular individual with whom they dealt personally. Therefore if the individual with whom they dealt, whether it be an investigator, office manager or secretary has been actively and publicly involved in partisan politics they are likely to form the impression, no matter how objective the staff person may have acted, that the Ombudsman's Office is politically partisan — and this kind of speculation becomes particularly easy when we have not been able to resolve a matter in the manner the complainant would like.

While, as indicated earlier, The Ombudsman Act safeguards the political independence and neutrality of the Ombudsman, this is not true for the staff of the Ombudsman. Section 9(3) of The Ombudsman Act reads:

> "*Employees under Ombudsman.*
> *9(3) The Civil Service Act applies to persons employed under the Ombudsman.*"

Section 44(1) of The Civil Service Act provides as follows:

> "*Rights of public servants respecting elections.*
> *44(1) Nothing in this Act, or any other Act of the Legislature, prohibits an employee in the civil service or a person employed by any agency of the government*

(a) from seeking nomination as or being a candidate or supporting a candidate or political party in a provincial or federal general election or by-election, and if elected, from serving as an elected representative in that public office; or

(b) from speaking or writing on behalf of a candidate or a political party in any election, or by-election, if in doing so he does not reveal any information or matter concerning the department, branch or agency in which he is employed or any information that he has procured or which comes to his knowledge solely by virtue of his employment or position."

Hence you see that we have a situation where employees under the Ombudsman, because The Civil Service Act applies to them, can become politically active in a partisan way and, in my view, by such activity detract from the credibility of the Ombudsman's Office as a politically neutral and objective office. I feel that in order to preserve both the political independence and the appearance of political independence as well as maintain public faith in the office a change in legislation is required and that the simplest way to bring about the desired effect would be for the Legislature to amend Section 9(3) of The Ombudsman Act to read as follows:

> *"Employees under Ombudsman.*
> *9(3) The Civil Service Act, except for Section 44(1), applies to persons employed under the Ombudsman."*

There will, of course, be some people who will disagree with my views on this matter arguing that to make such an amendment would be to deprive civil servants of a right they currently have by law. I would quite simply respond to that by saying that no person has to work under the Ombudsman to enjoy the benefit of the civil service, and those persons wishing to be civil servants and participate actively in politics can exercise their rights by choosing employment from a vast array of government departments and agencies where such activity would not present a conflict. However, I firmly believe that persons seeking employment in the Ombudsman's Office should recognize the incompatibility of active partisan politics and the work of the Ombudsman and should not expect to pursue both.

I am by way of this report informing both the Legislature and the public at large of my views on this matter and I am hereby giving notice that, if the Legislature does not see fit to deal with the matter on its own initiative as a result of this report, I shall during the next year pursue whatever avenues may be available to have the matter addressed. However, ultimately the question of whether the legislation as it now stands is appropriate must be decided upon by the Legislature.

Monitoring Inquests

At the back of this report where we have listed all the problems handled during the year there are some matters listed where the caption simply reads, "Monitor inquest". The procedure of monitoring inquests is a procedure which we formalized in 1985 in an effort to fulfill our obligations under The Ombudsman Act while at the same time avoiding, where possible, duplication of effort.

Under The Ombudsman Act, the Ombudsman has the responsibility of investigating "any decision or recommendation made, including any recommendation made to a minister, or any act done or omitted, relating to a matter of administration in or by any department or agency of the government, or by any officer, employee or member thereof, whereby any person is or may be aggrieved". Such matters may be investigated on a written complaint or on the Ombudsman's own initiative. The agencies over which the Ombudsman has jurisdiction would include child and family services agencies, youth centres, psychiatric wards in hospitals, mental health centres, correctional institutions, and so forth. Sometimes there are situations where a death may occur while an individual is in the care of or relating to an institution or agency in some way or another. In such situations our office may, on the basis of a complaint or on the Ombudsman's own initiative, wish to investigate the circumstances surrounding the death to determine whether there has been any maladministration on the part of the government department or agency.

While the Ombudsman has jurisdiction under his legislation to look at possible maladministration by provincial departments or agencies, at the same time the Chief Medical Examiner, under The Fatality Inquiries Act, has a responsibility to investigate sudden deaths including situations where the person died in a correctional institution, jail or prison or while an involuntary resident at any institution in the province.

Therefore there are situations that arise involving provincial institutions, departments or agencies where both the Office of the Chief Medical Examiner and the Office of the Ombudsman would have an interest and would have jurisdiction. In order to avoid duplication of efforts we have worked out with the Chief Judge of the Provincial Judges Court and the Chief Medical Examiner a formal system where our office will monitor inquests.

Essentially the system works as follows. The Ombudsman's Office has been placed on the automatic mailing lists for notices of all inquests which are called. In the event that an inquest is called into a matter in which we, because of our mandate, have an interest and where we have concerns which we feel should be addressed we will communicate these concerns in writing directly to the Chief Judge of the Provincial Judges Court to be dealt with as he sees fit. Once the inquest has been completed and the report and recommendations of the presiding judges have been issued, we are provided with a copy. Following the examination of the inquest report, I may then choose, on my own motion, to do some follow-up or perhaps even a complete investigation with the department involved particularly if the inquest report does not address the concerns our office would have. In the event that there is no need for my office to investigate further because the inquest report covers our concerns and contains recommendations concerning matters which I would have addressed had my office conducted a first hand investigation, I may then simply file a report, under The Ombudsman Act on the basis of having investigated through monitoring the inquest, making those same recommendations and/or such additional recommendations as I deem necessary. This then allows my office to follow-up directly with the department or agency involved in an attempt to ensure that necessary changes are effected.

It was generally felt by all parties concerned that this process would be an expedient way to proceed with issues where both the Chief Medical Examiner and the Ombudsman have jurisdiction, rather than the alternative of the Ombudsman awaiting the conclusion of an inquest and then investigating matters of administrative concern, resulting possibly in considerable delay and duplication. I am pleased to report that this process is working well thus far and during the past year we monitored several inquests to ensure that the administrative systems of provincial institutions, departments or agencies were not directly or indirectly attributing to causing deaths.

Reports to Cabinet

Sometimes when people are contemplating whether or not to bring a matter to the attention of the Ombudsman, they may ask what powers does the Ombudsman really have. The Ombudsman has basically three powers — **the power of investigation, the power of recommending, and the power of reporting.**

After investigating a complaint, if the problem has not been resolved during the investigation, the Ombudsman may make a formal recommendation to the appropriate minister and to the department or agency involved. Usually the ministers and departments accept the Ombudsman's recommendations and the matter is thereby resolved.

If, however, within a reasonable time after a formal recommendation has been made, no action is taken which seems to the Ombudsman to be adequate and appropriate, the Ombudsman, in his discretion, after considering the comments, if any, made by or on behalf of the department or agency involved, may report the matter to the Lieutenant Governor in Council (Cabinet).

Generally speaking, reports to Cabinet by the Ombudsman are rare. In fact the Ombudsman reported to Cabinet only a few times from 1970 (first year of operation) to 1984. However, the Ombudsman made four formal reports to Cabinet during 1985, and one in the first quarter of 1986. The 1986 Cabinet report will be reported on in my next annual report. Regarding the 1985 Cabinet reports the first involved the Department of Highways and Transportation; the second, the Department of Agriculture; the third, the Workers Compensation Board; and the fourth the Civil Service Superannuation Board.

Under The Ombudsman Act, the Ombudsman, after making a report to the Lieutenant Governor in Council, may thereafter mention the report in his next annual report to the assembly. I feel that it is important for me to inform the Legislature of the fact that I did have to report to Cabinet on four cases during the year 1985 and, although I shall not go into a lot of detail, I shall present the following summaries to give an idea of the problems which were not resolved by the department and minister following the Ombudsman's investigation and formal recommendation, and the outcome of these matters after being presented to Cabinet.

Case Number 1 — involving the Department of Highways and Transportation

During 1977, a tender was called by the Department of Renewable Resources for the construction of a road in northern Manitoba. The company which submitted the lowest bid alleged that they had been led to believe, by departmental officials, that they had been successful in their bid and that the project simply required a rubber stamp approval from the Treasury Board; and, further, that they had been encouraged to take positive steps towards preparation to perform the contract. However, this project did not proceed and the company alleged a financial loss as a result.

In 1983 my office was requested, by the Honourable Samuel Uskiw, who at that time was Minister of Highways and Transportation, to investigate this matter and to determine whether or not the Government of Manitoba had any obligation to the company. In addition, the company subsequently also requested that our office accept this matter as a complaint.

Despite the difficulties inherent in investigating a matter dating so far back, our office did investigate, and concluded that the Government of Manitoba did have an obligation to the contracting company for losses sustained as a result of the project not proceeding. Accordingly, I recommended on February 23, 1984 to the Minister of Highways and Transportation that the Government, through the Department of Highways and Transportation begin negotiations with the company to document financial loss directly related to the tender and that efforts be made to obtain a mutually satisfactory agreement regarding compensation. My recommendation was not accepted initially and I submitted a report to Cabinet on February 25, 1985 following which Cabinet accepted my recommendation. However, negotiations on this case took another full year with a settlement finally being effected on February 6, 1986. This case is described in more detail under the section of my report entitled Case Summaries.

Case Number 2 – involving the Department of Agriculture

This case also came to the attention of my office in 1983 and involved what was then known as the Agricultural Lands Protection Board (now known as the Manitoba Farm Lands Ownership Board). The function of the Manitoba Agricultural Lands Protection Board (herein after referred to as the Board) was to administer legislation which at that time was known as The Agricultural Lands Protection Act which basically was designed to control foreign ownership of agricultural land in Manitoba. Under that legislation, it was the responsibility of the Board to ensure that ineligible persons, i.e. persons who were not residents of Canada, did not purchase or otherwise directly or indirectly acquire land in Manitoba except in accordance with The Agricultural Lands Protection Act. That Act spoke of the amount of coverage which could be owned and the exemptions that could be made. That Act is no longer in existence, having been replaced by The Farm Land Ownership Act.

Our complainant had come from England in 1979 and had purchased, with the approval of the Manitoba Agricultural Farm Lands Protection Board and by way of exemption under The Agricultural Lands Protection Act, several acres of farm land far in excess of the twenty acres allowed to ineligible persons under the Act. His purchases received approval apparently because the Board saw the proposals put forward re the use of these farms as having significant and long term benefit for the industry in Manitoba. However, the complainant's farming plans did not proceed favourably and he decided to sell the farms he had purchased. After unsuccessful attempts to sell the farms locally he attempted to sell the farms to non-residents of Canada, which meant that such ineligible persons would have to receive approval from the Board to purchase land in excess of the amount allowed under the Act.

The complaint to our office was basically that the Board, through its Executive Director, exceeded its jurisdiction preventing the complainant from selling his holdings to non-residents by presenting to Immigration officials, in the case of each proposed sale, a negative report on the financial and agricultural viability of the farm for each prospective buyer.

Without going into details of our investigation of this complaint, it is sufficient to say that we found that the Manitoba Agricultural Lands Protection Board, through its Executive Director, exceeded its mandate by becoming involved with questions of the agricultural and economic viability of the farm lands our complainant was attempting to sell and, further, by expressing concern about the actual financial arrangements of the complainant's land transactions. Consequently the complainant was unable to complete the sale of certain farm lands and thereby suffered a financial loss. I therefore recommended **that the Department of Agriculture negotiate directly with the complainant in an attempt to effect a reasonable and appropriate settlement.**

The Ombudsman's recommendation was rejected by the Deputy Minister in a letter dated March 20, 1984 in which he indicated that the recommendation was being rejected based on a Queen's Bench court decision delivered on April 29, 1983. By way of explanation, it should be mentioned that prior to coming to my office with his complaint, the complainant had filed a statement of claim in court against the Board, but the judge had dismissed the claim primarily because the defendant (i.e. the Board) was not incorporated and under the legislation was not a suable entity. The merits of the complainant's case never really got examined before the courts because the Act prevented the Board from being sued. Hence, the complainant's only recourse, at that point, to have his case examined in detail was the Office of the Ombudsman.

Being disappointed with the nature of the response by the Department, I wrote the Minister of Agriculture requesting that he give further consideration to my recommendation and I indicated my willingness to meet to discuss the matter further. The Minister responded to my correspondence advising that his Department had rectified my basic concerns regarding the mandate of the Manitoba Agricultural Lands Protection Board by developing and implementing new arrangements which divorced the role of advice on farm viability from the Board staff and placed it clearly in the hands of the Department. However, with respect to my recommendation that the Department attempt to offer a reasonable and appropriate settlement with the complainant, the Minister indicated that he could not respond in a positive manner, making reference to the court decision.

Following the Minister's response, arrangements were made to meet with him and his Deputy to discuss the case in detail. While the Minister, at this meeting, did agree that the Board had exceeded its jurisdiction he felt, on the basis of legal advice, that it would be inappropriate for his Department to compensate the complainant. He also reiterated the fact that the Department had dealt with the general problem by the separation of functions. I pointed out that while this was true, the complainant's particular problem still remained unresolved. It became very clear to me during that meeting that the Department was not going to change its position with regard to my recommendation. I then suggested that perhaps an alternative approach would be for the Department to communicate directly with our complainant to hear his side of the story and see if there was any way that the various programs of the Department would be of assistance to help him out of the financial dilemma he was facing with respect to his farms in Manitoba. It should be noted that at that point the complainant's financial situation was becoming quite desperate and he had indicated a willingness to accept any help he could get.

The Minister agreed to meet with the complainant. I pointed out that if the proposed meeting were successful in opening the doors of communication, then hopefully the matter would proceed between the Department and the complainant directly toward some solution. However, I indicated that if the meeting were not successful, then the Ombudsman would have to assess the situation and proceed further by way of reporting under our legislation.

On September 6, 1984 the Minister and Deputy Minister met with the complainant and the outcome of that meeting was transmitted to me by letter dated September 27, 1984. Essentially, after reviewing and evaluating the complainant's financial situation with regard to his farm lands, the Department concluded that his situation had deteriorated to such an extent that there was nothing that could be done, through normal departmental programming, to re-establish its viability. The Department remained firm in its position to not pay any compensation.

Subsequently I reported this case to Cabinet. Because of my very heavy workload I was not able to finalize my report to Cabinet until April 15, 1985. However, I felt it was very important that this case be reported because of the following significant principles which were raised by this case and which I emphasized in my report to Cabinet:

1. The implications of a court decision regarding legal liability versus the Ombudsman's findings of moral responsibility.
2. The correcting of a general problem while allowing a specific grievance to go unredressed.

Without elaborating greatly upon these two points I pointed out to Cabinet that I felt that if the wrong approach were taken to either of these two questions then a great disservice would be done to the concept of the Ombudsman and to the people of Manitoba whom the Ombudsman serves. I emphasized that one must not hide behind legal liability to avoid doing what is right nor must one be content to allow an individual's injustice to go unredressed simply because one has taken steps to resolve the general problem so that it will not occur in the future — particularly if one has the means to resolve the particular problem.

I concluded my report to Cabinet on this case by presenting my opinion that even at that point in time the government had an obligation to address in a practical way the grievance caused to the complainant as a result of the Agricultural Lands Protection Board exceeding its mandate, and I presented for consideration my original recommendation that the Department of Agriculture negotiate directly with the complainant in an attempt to effect a reasonable and appropriate settlement. Cabinet considered my report and declined my recommendation. The last contact I had with the complainant was in January 1986, at which time he indicated that his case would be going to court and that his lawyer was gathering all the necessary information.

Case Number 3 — Involving the Workers Compensation Board

The case involving the Workers Compensation Board was filed in 1984 by a complainant alleging that the Workers Compensation Board would not provide him with rehabilitation services to which he felt he was entitled. The complainant presented these major areas of concern:

1. the question of entitlement to further rehabilitation assistance;
2. a dispute over what he felt to be erroneous personal information contained on his file at the Workers Compensation Board; and
3. concerns about the fairness of a Medical Review Panel hearing — these concerns arising because of the fact that the chairperson of the panel had conducted a medical assessment of the complainant prior to, and separate from, his role of chairing the panel.

A thorough investigation was conducted and our office found the complainant's concerns to be supported, and accordingly I made three recommendations, namely:

1. That the complainant's eligibility for rehabilitation assistance be reassessed by the Workers Compensation Board, with a view of providing him with at least the equivalent of one year's retraining.
2. If a Medical Review Panel was considered necessary for a proper reassessment, that an independent Medical Review Panel be established, comprised of doctors who had no previous involvement with the complainant's case. This suggestion was made in light of the possible conflict of interest of the previous Medical Review Panel.
3. That any references made to erroneous personal information be removed from the complainant's file and that an apology be extended in this regard.

The Workers Compensation Board in responding to my report and recommendations saw fit to accept only one of my recommendations, namely the one pertaining to the personal information on the complainant's file. My position was that in order to properly resolve the complaint the recommendation concerning rehabilitation assistance, and if necessary the recommendation involving the Medical Review Panel, had to be implemented. I felt the Board's reasons for not accepting these recommendations were not satisfactory and I indicated this to the Board in correspondence, a copy of which was sent to the Minister charged with the administration of The Workers Compensation Act. The Board, however, remained firm in its position stating that there was no basis upon which to alter its previous decision and that no further rehabilitation assistance could be provided. I subsequently reported this case to Cabinet requesting that appropriate consideration be given to rectifying the complainant's grievance by the implementation of my recommendations.

Throughout our handling of this case, the complainant himself was making many efforts to have his problem resolved, these efforts often being taken on his own initiative and without our knowledge. These efforts involved discussions with the Worker Advisor Office, the Minister's Office, and various other sources, and often there were new elements introduced over and above the initial complaint. In response to the complainant's own efforts and the efforts of all with whom he had had contact, subsequent to our report to Cabinet, a further review of his case was scheduled by the Workers Compensation Board. Consequently the response by Cabinet to the Ombudsman's report was simply:

> *"Ombudsman to be advised that an appeal is scheduled and assistance from the Workers Advisor Office is forthcoming."*

Although, at that point, it was not clear whether the forthcoming appeal would deal with the Ombudsman's recommendations (since the complainant by now had introduced a new claim and various other concerns; nonetheless, the fact remained that the complainant would be having a further opportunity to air, with assistance from the Worker Advisor Office, any concerns related to his case with the Workers Compensation Board. Therefore the Ombudsman did not pursue this matter further at that time. This case was still open at the time of writing this report pending a further review by our investigator of the complainant's situation.

Case Number 4 — involving the Civil Service Superannuation Board

In April 1985, the complainant filed a complaint with my office against the Civil Service Superannuation Board essentially stating that he felt that the Board's decision not to allow him the opportunity of buying back prior educational leave for pensionable service was unfair.

Essentially, the complainant advised that during the academic years 1960 to 1961 and 1961 to 1962, he was on educational leave studying social work at the University of Manitoba. He alleged that he was assured by the Personnel and Payroll Offices of his Department (then the Department of Health and Welfare) that the contributions towards the pension fund would be regularly made during his educational leave. Reportedly, it was not until January 1981 that he learned, at a pre-retirement seminar, that no superannuation contributions had been paid on his behalf during the second academic year of his educational leave. When he attempted to rectify this situation, offering to buy back the time involved, he was not allowed to do so even though the Civil Service Superannuation Board under Section 5(6) of The Civil Service Superannuation Act has the discretion to extend time limits for such action. The Board first of all suggested that in order for them to make a decision, the complainant needed some proof from his employer indicating that the employer erred in not informing him of the option of contributing to the fund during the period of his educational leaves. The complainant provided such proof in the way of a written statement from his employer and yet the Board did not grant him the option of buying back the service, arguing that "the material at hand did not reflect that the failure to obtain the benefit was **wholly** or **materially** the fault of an error on the part of the employing authority".

My office investigated this complaint and on the basis of the evidence available, including a legal opinion from my solicitor, I was of the opinion that the decision of the Civil Service Superannuation Board, in this case, was wrong. My opinion, my reasons and my formal recommendation were submitted to the Board. My recommendation was that the complainant be allowed to buy back prior educational leave as pensionable service. The Board rejected my recommendation indicating that the Board's decision was made after a review of everything available including a legal opinion from their solicitor. I carefully reviewed the Board's response to my recommendation, as well as the opinion of the Board's solicitor, which seemed to me to lean more in the direction of supporting my opinion that the Board's decision was wrong, than in the direction of supporting the Board. However, whereas the Board was firm in its position, I then reported the matter to Cabinet indicating that in my opinion the Civil Service Superannuation Board, in exercising its discretionary power under Section 5(6) of The Civil Service Superannuation Act, applied too strict a test and was wrong in its decision not to allow the complainant the option of buying back pensionable service. I requested that the Lieutenant Governor in Council give my report appropriate consideration with a view toward the implementation of my recommendation that the complainant be allowed to buy back prior educational leave as pensionable service. Cabinet declined my recommendation.

In this particular case, I feel, on the basis of the evidence available, that a grave injustice has taken place, and I shall attempt some further negotiations to see if this matter can be resolved, and if not, then I shall give serious consideration to making a special public report on this case under Section 43 of The Ombudsman Act which is as follows:

> *"Publication of reports.*
> *43 In the public interest, or in the interest of a person, department or agency of the government, the Ombudsman may publish reports relating generally to the exercise and performance of his functions and duties under this Act or to any particular case investigated by him, whether or not the matters to be dealt with in the report have been the subject of the report made to the assembly under this Act."*

Comment on Reports to Cabinet

One important point to note with respect to reports by the Ombudsman to Cabinet is that while The Ombudsman Act provides for the Ombudsman to report a case to Cabinet, the Act does not place any onus on Cabinet to discuss, respond to, or even act upon the Ombudsman's report and recommendations. The practice that followed the submission of my reports to Cabinet was quite simply that Cabinet considered my reports and responded to me indicating either acceptance or rejection of my recommendations. In the case of declining a recommendation, Cabinet did not provide any reasons for declining my recommendation. While I recognize that there is no requirement for Cabinet to convey to me any information in response to my reports, I do feel it would be helpful to me if some clarification were provided when Cabinet reached a decision not to support my recommendations. It could well be that Cabinet, upon deliberation of the case, may receive and consider information unknown to me and that information may cause Cabinet to decline my recommendation. It is possible that such information could be relevant to my final opinion on the case, and might well be a factor to be considered by the Ombudsman before proceeding further. In any event I pursued this concern with Cabinet and was advised that the issue of information pertaining to Cabinet decisions on my recommendations was reviewed but that in light of the principles of confidentiality and solidarity which govern the operation of the Cabinet, it will not be possible to convey more than the decision reached.

A Note on Institutional Visits

As mentioned previously in this report the Ombudsman has an obligation to monitor, either through complaints or on his own motion, provincial institutions (correctional facilities, psychiatric facilities, youth centres, etc.) to ensure that inmates, patients, and residents do not suffer grievances as a result of poor administration. Although the Ombudsman has very formal powers to enter upon premises at any time for purposes of inspection, most monitoring of institutions is done through case by case investigations of complaints brought forward by persons residing or working in these institutions, or through complaints pursued on the Ombudsman's own initiative.

A Visit to Selkirk Mental Health Centre

As a result of a series of newspaper articles in April 1985 concerning allegations of mistreatment of patients and inhumane conditions at the Selkirk Mental Health Centre, I arranged a tour of the Institution for myself and one of my investigators. We met with the Chief Executive Officer of the centre and other key staff and discussed the concerns which had been subject to discussion in the news media and which had been the subject of discussion in the Legislature. We then had a tour of the facility to assess firsthand the care being given to the patients as well as the condition of the centre itself. Generally speaking, the custodial and physical care of the patients appeared to be good with some activity centres and occupational therapy programs being available to patients. Whether some of these programs could be, or need to be expanded upon is a matter which perhaps merits further consideration, recognizing of course that the centre is also dealing with fiscal and staff restraints. During our visit we obtained for review an information package on the Institution as well as the guide to accreditation standards.

While we were satisfied from our visit that the serious problems alleged in media reports did not currently exist, we did feel that there may be some broader issues requiring attention such as meaningful and appropriate activities for patients, the personalization of a somewhat sterile environment, and so forth. These matters we are continuing to follow-up on a case by case basis and also in a general way with the centre. We were pleased to note that those staff members we met during our tour displayed a genuine concern for, and interest in, the patients for whom they were caring.

A Visit to the Manitoba Developmental Centre

In May 1985 I was pleased to accept an invitation to participate in a Postgraduate Day at the Manitoba Developmental Centre. This Postgraduate Day had a formal morning agenda examining such topics as: The History of the Manitoba Developmental Centre; An Overview of Mental Retardation; An Overview of Behavioural Psychology; The Function of the Chaplain, and an Assessment of the Mentally Handicapped. As part of this formal program I gave a presentation on the function of the Manitoba Ombudsman. Following lunch, clinical ward walks were conducted through the centre which afforded me an excellent opportunity to view the operation of the centre as well as discuss the centre's program with the Medical Director, Chief Executive Officer and other staff.

Other Visits

Although the workload was very heavy during 1985 I was able, in the company of my Assistant, to make a tour northward and visit the Brandon Correctional Centre, the Dauphin Correctional Centre, The Pas Correctional Centre and Egg Lake Camp. At these centres we made ourselves available to staff and inmates for any concerns they might have. While in The Pas I had the opportunity of meeting briefly with the Chief, Band Manager and other officials of The Pas Indian Band. Also while in The Pas and Dauphin we took the opportunity to meet officials in some of the provincial government departments such as Manitoba Environment and Workplace Safety and Health, Manitoba Municipal Affairs, and Manitoba Natural Resources.

During the year I was also pleased to attend, as I have in previous years, the annual tea and open house at the Portage la Prairie Correctional Centre. I am always impressed at the degree of harmony and good will that seems to exist between staff and inmates in that Institution at that particular event. The inmates have a major role to play in organizing the tea, conducting tours through their facility, selling their handcrafts, and they seem to take great pride in presenting themselves and their Institution as part of and to the community at large.

The Ombudsman Is Consulted

In my 1984 annual report I touched upon the consultative function of the Ombudsman indicating how Cabinet or various committees of the assembly might consult with the Ombudsman on matters they have under consideration. As well, senior departmental officials often contact the Ombudsman to discuss matters which they may be considering where they may feel it is important to have some feedback from the Ombudsman. During 1985 the Ombudsman, upon request, made presentations to the committee to review The Workers Compensation Act, The Mental Health Act Review Committee, and the Regulatory Review Task Force on Small Businesses.

Also, I continued to consult with the Provincial Coordinator of the Child Abuse Program and the Provincial Advisory Committee on Child Abuse to follow-up matters relating to the Child Abuse Registry.

Public Relations

As in previous years the Ombudsman continued to be very busy in the area of public relations, although the number of public appearances I made was less than that in 1984. Whereas in 1984 I attended seventy-two public relations functions involving collectively approximately six thousand, seven hundred people, in 1985 I attended fifty-six functions involving in total approximately four thousand. Of these engagements, thirty-six involved the Ombudsman as guest speaker or participant, while the remainder involved an appearance in a less significant way. Following is a list of the thirty-six events to which the Ombudsman was invited as a participant.

Event	Location	Topic of Presentation (or Role Played*)	Approximate Number of People Present
St. Vital Neighbours	Winnipeg, Manitoba	The Role of the Ombudsman	8
St. Andrews River Heights United Church, Men's Breakfast	Winnipeg, Manitoba	The Role of the Ombudsman	20
Manitoba Association of Rights and Liberties Affirmative Action Seminar	Winnipeg, Manitoba	Moderator of Panel on Affirmative Action	120
University of Manitoba Social Welfare Course	Winnipeg, Manitoba	The Role of the Ombudsman	20
Transcona Winnipeg Rotary Club	Winnipeg, Manitoba	The Role of the Ombudsman	30
University of Manitoba Administrative Law Class	Winnipeg, Manitoba	The Role of the Ombudsman	20
Institute of Public Administration of Canada — Winnipeg Region	Winnipeg, Manitoba	The Role of the Ombudsman	40
Employment Strategies Class Red River Community College	Steinbach, Manitoba	The Role of the Ombudsman	12
University of Winnipeg Law Class	Winnipeg, Manitoba	The Role of the Ombudsman	90

Event	Location	Topic of Presentation (or Role Played*)	Approximate Number of People Present
Conference on Barriers to Equal Opportunities for Racial and Ethnic Minorities Sponsored by Manitoba Intercultural Council and the Manitoba Association for Rights and Liberties	Winnipeg, Manitoba	*Introducing keynote speaker, The Ontario Ombudsman	100
International Right-of-way Association Keystone Chapter No. 66	Winnipeg, Manitoba	The Role of the Ombudsman	23
Child Care Services Course Red River Community College	Winnipeg, Manitoba	The Role of the Ombudsman	15
Canadian College of Teachers Manitoba Chapter	Winnipeg, Manitoba	The Role of the Ombudsman	16
Trinidad and Tobago Society Mother's Day Program	Winnipeg, Manitoba	*Greetings and remarks on behalf of the Ombudsman's Office	75
Manitoba Developmental Centre Postgraduate Day Program	Portage la Prairie, Manitoba	The Role of the Ombudsman	12
Garden Grove School Spring Tea	Winnipeg, Manitoba	*Guest pourer	300
Conference of Barbadian Canadian Associations — Dinner and Dance	Winnipeg, Manitoba	Let's Get Together (Preparing Today's Youth for the Future)	150
Conference of Barbadian Canadian Associations Workshop — Youth and Community	Winnipeg, Manitoba	Leadership Training	75
Health Sciences Centre Psychiatric Ward	Winnipeg, Manitoba	The Role of the Ombudsman	15
Department of Natural Resources Crown Lands Branch — Staff Meeting	Winnipeg, Manitoba	The Role of the Ombudsman	40
Selkirk Mental Health Centre Senior Class, Psychiatric Nursing Students	Selkirk, Manitoba	The Role of the Ombudsman	20
The Children's Aid Society of Central Manitoba 51st Annual General Meeting and Foster Parents Recognition Night	Portage la Prairie, Manitoba	Caring and Sharing	150

Event	Location	Topic of Presentation (or Role Played*)	Approximate Number of People Present
Department of Community Services Meeting of Superintendents of Adult Correctional Institutions	Winnipeg, Manitoba	The Freedom of Information Act and The Role of the Ombudsman	15
Little People of Canada 50th Annual National Convention	Winnipeg, Manitoba	Human Rights	75
Legislative Internship Program	Winnipeg, Manitoba	The Role of the Ombudsman	6
University of Winnipeg Child Care Course	Winnipeg, Manitoba	The Role of the Ombudsman	23
Child and Family Services of Central Winnipeg	Winnipeg, Manitoba	Confidentiality	15
Canadian Association of Rehabilitation Personnel 1985 National Conference	Winnipeg, Manitoba	Perspectives '85 — Who Wants Your Help Anyway?	75
The Pas Correctional Institution Training Seminar	The Pas, Manitoba	The Role of the Ombudsman	20
Grace Hospital Psychiatric Unit	Winnipeg, Manitoba	The Role of the Ombudsman	15
Red River Community College	Steinbach, Manitoba	The Role of the Ombudsman	12
The Law Society of Manitoba Legal Studies and Legal Aid Manitoba Freedom of Information Seminar	Winnipeg, Manitoba	Freedom of Information and The Role of the Ombudsman	40
Manitoba Society of Criminology Victims of Crime Conference Seminar	Winnipeg, Manitoba	Is there Need for a Victim Ombudsman?	35
"Regulatory Review of Small Business Task Force"	Winnipeg, Manitoba	Small Businesses and The Role of the Ombudsman	5
Phi Delta Kappa (Educational Fraternity) Debate	Winnipeg, Manitoba	Censorship of School Materials	20
Garden Valley Collegiate	Winkler, Manitoba	The Role of the Ombudsman	26

Another aspect of our public relations work is to maintain contact with other Ombudsmen. In that regard the Assistant Ombudsman and I attended the annual conference of Canadian Ombudsmen, which was held in Quebec City in the Province of Quebec. At that conference I presented a paper entitled, "To Pay or Not to Pay" which was a discourse on Ombudsman recommendations involving money. The conference dealt with many other subjects relevant to our work and provided an excellent opportunity for us to meet with our colleagues, compare notes, and refresh ourselves for the year ahead.

Also during 1985 I was officially invited to lend support to my colleague, the Ontario Ombudsman, Dr. Daniel Hill, by attending the official opening of his regional office in Kenora, Ontario. Ontario, a much larger province than Manitoba, has been making the Ombudsman's services accessible to its population through the establishment of district and regional offices. I was pleased to be able to support this concept and to represent Manitoba by my presence at the opening of the Kenora office.

Freedom of Information

During 1985 Manitoba's Freedom of Information Act was passed by the Legislature, obtaining royal assent on July 11, 1985. However, at the time of writing this report, a proclamation date had not yet been announced, hence the Act was not yet in force.

I shall not discuss The Freedom of Information Act in detail in this report. Essentially the legislation provides that subject to certain qualifications contained in the Act, every person has, upon application, a right of access to any record in the custody or under the control of a department, including any record which discloses information about the applicant. The legislation attempts to balance the right to public access with the need to preserve the confidentiality of information which may impact on personal privacy, commerce, and the internal development of government policy.

An important aspect of The Freedom of Information Act is that the legislation contains a two level review or appeal process to ensure the enforcement of right of access. Applicants who have been denied access may ask the Ombudsman to review their request and the Ombudsman, after investigation, may make recommendations to the relevant department or agency. Similar to any investigation conducted by the Ombudsman, the Ombudsman's recommendations are not binding. If the matter is still in dispute after the Ombudsman's review, the applicant may bring the matter before the court for final review.

During the year the Ombudsman participated in two seminars concerning The Freedom of Information Act, where the Ombudsman explained the responsibilities and functions given to him under The Freedom of Information Act. One seminar was organized by the Department of Community Services and involved the Superintendents of Adult Correctional Institutions while the other seminar was organized by the Law Society of Manitoba Legal Studies and Legal Aid Manitoba and included presentations by a representative of the Department of Attorney-General, representatives of Legal Aid Manitoba, a representative of the print media, and the Federal Information Commissioner.

While The Freedom of Information Act is not yet in force, it is anticipated that when the legislation is proclaimed there may well be a significant number of complaints presented to the Ombudsman's Office under that legislation, and, if so, I feel that a serious assessment of the office's resources may have to be undertaken at that time.

Complaint Statistics

Cases Brought Forward From the Previous Year

At the close of the calendar year 1984, 113 cases were pending (1 of which had been carried over from the calendar year 1982 and 17 from the calendar year 1983). The dispositions of these cases are as follows:

Assistance Rendered 4

(83-280-9 — Highways and Transportation, 84-120-5 — Business Development and Tourism, 84-180-8 — Courts of Law, 84-300-29 — Housing)

Discontinued (Client) 2

(84-150-186 — Community Services, 84-150-188 — Community Services)

Information Supplied 8

(84-100-6 — Agriculture, 84-100-12 — Agriculture, 84-150-104 — Community Services, 84-220-18 — Employment Services and Economic Security,
84-380-18 — Municipalities, Cities, Towns, Etc.,
84-380-28 — Municipalities, Cities, Towns, Etc.,
84-380-29 — Municipalities, Cities, Towns, Etc., 84-460-33 — Workers Compensation Board)

Not Supported 6

(84-110-20 — Attorney General, 84-210-6 — Education, 84-290-15 — Highways and Transportation, 84-390-9 — Natural Resources, 84-460-7 — Workers Compensation Board, 84-460-24 — Workers Compensation Board)

Resolved 10

(83-140-99 — Community Services, 83-290-16 — Housing, 83-290-63 — Housing, 84-210-11 — Education, 84-220-10 — Employment Services and Economic Security, 84-280-75 — Health, 84-280-76 — Health, 84-300-1 — Housing, 84-330-14 — Manitoba Hydro, 84-350-54 — Manitoba Public Insurance Corporation)

Declined 1

(84-110-27 — Attorney General)

Still Pending 82

(82-120-7 — Consumer and Corporate Affairs, 83-100-5 — Agriculture, 83-140-88 — Community Services, 83-140-100 — Community Services, 83-220-3 — Environment and Workplace Safety and Health, 83-270-21 — Health, 83-280-15 — Highways and Transportation, 83-280-40 — Highways and Transportation, 83-290-48 — Housing, 83-290-49 — Housing, 83-350-29 — Municipalities, Cities, Towns, Etc., 83-360-5 — Natural Resources, 83-360-8 — Natural Resources, 83-370-1 — Northern Affairs, 84-100-4 — Agriculture, 84-100-8 — Agriculture, 84-100-9 — Agriculture, 84-120-3 — Business Development and Tourism, 84-120-7 — Business Development and Tourism, 84-150-3 — Community Services, 84-150-15 — Community Services, 84-150-27 — Community Services, 84-150-56 — Community Services, 84-150-68 — Community Services, 84-150-69 — Community Services, 84-150-84 — Community Services, 84-150-100 — Community Services, 84-150-119 — Community Services, 84-150-120 — Community Services, 84-150-142 — Community Services, 84-150-155 — Community Services, 84-150-156 — Community Services, 84-150-157 — Community Services, 84-150-160 — Community Services, 84-150-171 — Community Services, 84-150-175 — Community Services, 84-150-184 — Community Services, 84-150-189 — Community Services, 84-180-3 — Courts of Law, 84-210-3 — Education, 84-210-12 — Education, 84-220-15 — Employment Services and Economic Security, 84-230-1 — Energy and Mines, 84-230-2 — Energy and Mines, 84-230-3 — Energy and Mines, 84-230-4 — Energy and Mines, 84-230-5 — Energy and Mines, 84-240-1 — Environment and Workplace Safety and Health, 84-260-4 — Finance, 84-280-52 — Health, 84-280-80 — Health, 84-280-90 — Health, 84-280-91 — Health, 84-290-9 — Highways and Transportation, 84-290-10 — Highways and Transportation, 84-290-17 — Highways and Transportation, 84-300-9 — Housing, 84-300-14 — Housing, 84-300-24 — Housing, 84-300-28 — Housing, 84-300-39 — Housing, 84-300-44 — Housing, 84-300-48 — Housing, 84-330-2 — Manitoba Hydro, 84-350-2 — Manitoba Public Insurance Corporation, 84-350-32 — Manitoba Public Insurance Corporation, 84-350-35 — Manitoba Public Insurance Corporation, 84-350-56 — Manitoba Public Insurance Corporation, 84-350-57 — Manitoba Public Insurance Corporation, 84-350-58 — Manitoba Public Insurance Corporation, 84-350-59 — Manitoba Public Insurance Corporation, 84-350-60 — Manitoba Public Insurance Corporation, 84-390-2 — Natural Resources, 84-390-11 — Natural Resources, 84-390-12 — Natural Resources, 84-390-18 — Natural Resources, 84-390-22 — Natural Resources, 84-400-3 — Northern Affairs, 84-450-1 — Worker Advisor Office, 84-460-22 — Workers Compensation Board, 84-460-26 — Workers Compensation Board, 84-460-35 — Workers Compensation Board)

TOTAL **113**

Dispositions of 1985 Complaints

Assistance Rendered	67
Declined	48
Discontinued (Client)	32
Discontinued (Ombudsman)	13
Information Supplied	200
Not Supported	149
Pending	281
Partially Resolved	1
Resolved	67
TOTAL	**858**

The dispositions when we have perhaps been of most help to individuals are: Assistance Rendered. Information Supplied. Partially Resolved and Resolved. In 1985. out of the 577 cases completed. these dispositions totalled 335. In other words. the Ombudsman was able to respond positively in 58% of the cases completed.

There were 281 cases. that is 33% of the workload to be carried over to the next reporting year. In 1984. only 12% of the caseload was carried over to the next year. However. I anticipate that as a result of the additional staff who commenced work at the end of 1985 and the beginning of 1986. we shall see in our next annual report a reduction in the number of cases to be carried forward.

Similar to previous years. there was a relatively small number of cases where the Ombudsman declined to investigate. namely 48 cases. or 6% of the caseload.

Of the 577 cases concluded. there were 149. that is 26% which were found to be not supported.

There were 45 cases. or 5% of the total caseload discontinued by either the client or the Ombudsman.

Complaints attributed to each Department or Category

Rank	Department or Category	Number of Complaints	Percentage of Total (Approximately)	Number of Complaints Up From Last Year(+) Down From Last Year(-)
1	Community Services	161	19 %	-
2	Health	113	13 %	+
3	Private Matters	88	10 %	-
4	Manitoba Public Insurance Corporation	63	7 %	-
5	Attorney General	54	6 %	+
6	Housing	53	6 %	+
7	Workers Compensation Board	46	5 %	+
8	Boards, Commissions and Committees	38	4 %	New Category
	Employment Services and Economic Security	38	4 %	+
9	Federal Departments and Agencies	31	4 %	+
10	Municipalities, Cities, Towns, Etc.	28	3 %	-
11	Highways and Transportation	24	3 %	+
12	Corporations and Extra Departmental	18	2 %	New Category
13	Natural Resources	17	2 %	-
	Manitoba Hydro	17	2 %	-
14	Courts of Law	13	1 %	+
15	Education	12	1 %	-
16	Consumer and Corporate Affairs	8	.9%	+
17	Environment and Workplace Safety and Health	6	.7%	+
	Labour	6	.7%	+
18	Civil Service Commission	5	.6%	+
	Government Services	5	.6%	+
	Municipal Affairs	5	.6%	+
19	Energy and Mines	3	.3%	-
	Finance	3	.3%	-
20	Agriculture	2	.2%	-
21	Northern Affairs	1	.1%	-
		858	**100.0%**	

Complaints by the Year

Year	Written Complaints	Telephone Enquiries	Total of Written Complaints and Telephone Enquiries
1970	333	—	333
1971	396	—	396
1972	487	—	487
1973	441	—	441
1974	641	—	641
1975	651	—	651
1976	596	—	596
1977	606	—	606
1978	543	—	543
1979	531	—	531
1980	510	—	510
1981	526	—	526
1982	551	348	899
1983	728	1.179	1.907
1984	807	1.275	2.082
1985	858	1.826	2.684
Totals	**9,205**	**4,628**	**13,833**

Sources of Complaints

Altona	2
Amaranth	2
Anola	1
Arborg	2
Argyle	1
Aubigny	1
Bagot	1
Beausejour	2
Binscarth	1
Birch River	1
Boissevain	2
Bowsman	2
Brandon	40
Bruxelles	1
Camperville	1
Carberry	1
Carman	2
Churchill	3
Dallas	2
Dauphin	7
Douglas	2
Ebb and Flow	1
Egg Lake	1
Elm Creek	1
Elphinstone	1
Erickson	1
Ethelbert	1
Fairford	2
Falcon Beach	1
Fisher Branch	1
Flin Flon	3
Garson	1
Gimli	1
Grandview	1
Graysville	1
Hadashville	2
Hartney	1
Headingley	96
Ile des Chenes	1
Kenville	1
Killarney	1
Kleefeld	1
Lac du Bonnet	5
Leaf Rapids	3
Lenore	1
Lorette	1
MacGregor	2
Manigotagan	1
Margaret	1
Minitonas	1
Minnedosa	1
Morden	2
Neepawa	1
Nelson House	1
Ninette	1
Niverville	1

Oak Bank	1
Oakville	2
Pansy	1
Pilot Mound	1
Pinawa	1
Pine Falls	1
Pine River	1
Piney	1
Poplar Point	1
Portage la Prairie	10
Rapid City	2
Rathwell	1
Reston	1
Riding Mountain	1
Rivers	3
Roblin	1
Rorketon	3
Roseau River	2
Rossburn	1
Russell	1
St. Laurent	2
St. Martin	1
St. Norbert	1
St. Pierre-Jolys	3
Ste. Anne	4
Selkirk	35
Silver	1
Snow Lake	1
Steinbach	4
Stonewall	2
Stony Mountain	2
Teulon	1
The Pas	10
Thompson	4
Tolstoi	1
Treherne	1
Vassar	1
Virden	6
Vita	3
Wabowden	2
Waskada	2
Waterhen	1
Winkler	1
Winnipeg	470
Winnipeg Beach	1
Winnipegosis	1
Woodlands	1
Woodridge	1
Subtotal	**818**

Out of Province

Alberta	6
British Columbia	11
Ontario	9
Saskatchewan	7
Subtotal	**851**

Out of Country

Oregon, U.S.A.	3
Pasay, Manila, Philippines	1
South Dakota, U.S.A.	2
Texas, U.S.A.	1
Total	**858**

Selected Case Summaries

85-110-52 Manitoba Attorney General

Questions why no action was taken to enforce payment.

My office received a letter from an individual indicating that the Maintenance Enforcement Program was providing less than adequate service. He alleged that he had called their office on October 28 and October 30, 1985 requesting information as to what actions the Maintenance Enforcement Program had taken on his behalf. The response reportedly received at the time was that an individual could not be spared to locate his file and that they were unable to indicate when his call would be returned. He was advised the reason for this was that the Maintenance Enforcement Program office was in the process of relocating. In addition to this lack of response, our complainant was concerned that the Maintenance Enforcement Program had allowed some $4,400.00 in arrears to accumulate without any action having been taken.

Upon contacting the Maintenance Enforcement Program office, we were advised that their office handles in excess of 11,000 files and that at any given time these files can be rotated to 8 or 10 people on any given date. As a consequence, when an individual such as our complainant places a telephone call to their office and the information required is other than payment data which is available on their computer system, then the file has to be physically located and referred to a Family Maintenance Officer for review, after which the caller is contacted. It was explained that the reason for this procedure was that given the volume of files which they administer, it is impossible to discuss matters relating to the file without the Family Maintenance Officer having had the opportunity to review the information.

There were some additional complications in that the Maintenance Enforcement Program did not have an enforcement file on our complainant and secondly, there was some confusion as to who was the payer. What appeared to have happened was that both our complainant's surname and the maiden name of his former wife were filed separately, and this then necessitated the involvement of two different Family Maintenance Officers. This, however, only created some initial confusion. The main reason why no action had been taken was that the Maintenance Enforcement Program did not have an enforcement file on our complainant entitling them to take steps to enforce the support payments from his former wife.

A very practical explanation on why our complainant's calls had not been returned as promptly as would be desirable by all concerned, was that the Maintenance Enforcement Program relocated their office on November 1, 1985. Consequently, prior to the date of the move, and after the move, files were being packed and unpacked which made it difficult to locate files and respond to inquiries.

Upon the Maintenance Enforcement Program receiving the letter notifying them of the complaint which my office had received, they searched their records and those of the Queen's Bench after which it was discovered that the Queen's Bench had not registered a signed order. It was determined that for some reason the order had never been signed. Accordingly, they contacted the individual who was our complainant's legal counsel at the time when the order was made.

The legal counsel confirmed that for some reason the order had not been signed, but the indication was given that a new order would be prepared and that arrangements would be made to have it signed and forwarded to the Maintenance Enforcement Program.

Based upon the information received, it was evident that the Maintenace Enforcement Program was unable to take any enforcement steps or monitor payments as they had not been provided with an enforcement order duly signed and registered.

Upon considering the information obtained, it was determined that given the volume of cases with which the program deals and the practical inconvenience of a move, it was understandable why our complainant could not be provided with the requested information as quickly as was desirable. The immediate steps taken by the Maintenance Enforcement Program to ensure that the complainant's lawyer provided them with proper documentation in order that action could be taken to enforce the payments, was appreciated by my office.

85-120-7 Manitoba Attorney General

Requests copy of legal opinion.

I received a complaint from an individual who made application to Legal Aid Manitoba for a legal aid certificate in relation to an action against a local union.

His request for a legal aid certificate had been denied and he had appealed the refusal to the Board of Directors of Legal Aid Manitoba. The Board had upheld the decision not to provide legal aid.

It was our complainant's understanding that the decision not to provide legal aid had been based upon a legal opinion which had been provided to the Board regarding the case. Our complainant did not feel that he had been given sufficient reason for the denial of his application and that he was entitled to obtain a copy of the legal opinion which had been submitted to Legal Aid Manitoba. He requested assistance from our office in obtaining a copy of the legal opinion.

Inquiries on this matter were made with Legal Aid Manitoba on behalf of our complainant. We were advised that it was Legal Aid's policy not to release internal correspondence or documentation to an applicant. However, any correspondence or documentation that an applicant supplied to Legal Aid would, upon request, be returned to him/her. However, it was stipulated that any information generated internally, including opinions received in respect to the merits of an application, was the property of Legal Aid and would not be made available to the applicant.

We were further informed that when the area Director and/or the Executive Director refuses an application, reasons for the refusal are provided to the applicant on the refusal notice. However, when an applicant appeals the refusal to the Board of Legal Aid and his appeal is denied, the Board does not provide reasons for the refusal.

With respect to our particular complainant's situation, it was our understanding that the refusal was based strictly on the merits of the case and was based upon more than one legal opinion received as to whether or not he would be successful with regard to his claim against the union.

It was also our understanding that our complainant had himself received a letter from an independent lawyer regarding the merits of his case, and that this letter would provide him with clarification on the issues. Nevertheless, as he felt it would be helpful for him to obtain further clarification from Legal Aid Manitoba, the Deputy Director of Legal Aid did agree that he would be prepared to discuss the situation further with him.

It appeared that the process followed in this case was in accordance with the standard policy and procedure of Legal Aid Manitoba. Based upon the information received, I had no grounds to recommend that our complainant should be supplied with a copy of the legal opinion which was the property of Legal Aid Manitoba. Accordingly, we could not support our complainant's request and he was so notified.

85-120-25 Manitoba Boards, Commissions and Committees

Feels decision of Licence Suspension Appeal Board is unfair.

We received a complaint from an individual who, following the suspension of his driving privileges for a three month period effective June 24, 1985, had applied to the Licence Suspension Appeal Board for a restricted licence for the purposes of operating a motor vehicle during the course of his employ.

Following the hearing by the Licence Suspension Appeal Board, a provisional licence was granted to our complainant which contained the condition that the permit was "restricted to the operation of motor vehicles (except motorcyles)".

During the course of the investigation, my investigator had an opportunity to listen to the tape recording of the hearing conducted into our complainant's application for a restricted licence.

It appeared that at the hearing a letter had been produced from our complainant's employer indicating that he was required to operate a motor vehicle during the course of his employ. This letter also disclosed that our complainant had been utilizing a motorcycle to satisfy the transportation requirement, and that this mode of transportation was acceptable to his employer.

The tape recording of the hearing also disclosed that the Board had been advised that although our complainant owned a passenger vehicle, it was unregistered and not in running order. It was evident from the tape that the Board was not prepared to grant a restricted licence for the purposes of operating a motorcycle. The two reasons given by the Board at that time were:

(1) The face of the restricted licence contains a statement to the effect that motorcycles are not permitted to be operated with a provisional licence.

(2) A motorcycle is considered to be a leisure vehicle.

At the time of this investigation, the following definitions were contained in The Highway Traffic Act, Definition section:

(31) "motor vehicle" means a vehicle not run upon rails that is designated to be self-propelled or propelled by electric power obtained from overhead trolley wires, but does not include a farm tractor, a self-propelled implement of husbandry, a special mobile machine, or a snowmobile other than one mentioned in the exception set out in clauses (a) and (b) of subsection (11) of section 6.

(30) "motorcycle" means a motor vehicle, other than a tractor which
- *(i) is designed to travel on not more than three wheels in contact with the ground; and*
- *(ii) has a seat or saddle for the use of the rider sitting astride thereof and is capable of attaining a speed of 50 kilometres per hour or more,*

and includes a bicycle with a motor attached by which it is driven, and a motor scooter.

The Act does not appear to classify a motorcycle as a leisure vehicle, but rather as a "motor vehicle".

Section 279(6) of The Highway Traffic Act [formerly Section 253(3)] sets out the criteria on which the Board may make an order, stating:

"Limitation on orders.
279(6) The appeal board shall not make an order under subsection (1), unless

(a) it is satisfied, in the case of a suspension, cancellation, or disqualification,
- *(i) that exceptional hardship will result if the suspension or cancellation and the consequent disqualification remains in effect, and*
- *(ii) that, in all cases, the remission of the suspension or the cancellation and the consequent disqualification is not contrary to the public interest."*

The Act does not specifically exclude consideration of an application based on the type of motor vehicle being operated. Nevertheless, we were advised that Board policy did not allow a motorcycle to be driven on a restricted licence. We were advised that the rationale for this policy was that, due to weather conditions in Manitoba, a motorcycle could only be operated approximately five months of the year. We were advised that as a motorcycle is not an all weather vehicle, and can only be used during certain periods of the year, it was not practical to grant a provisional licence for that purpose.

In this particular case, our complainant's suspension had commenced June 24, 1985 and was due to expire September 24, 1985. It appeared that the concern expressed relating to weather conditions would not apply in this instance.

My investigator advised that during an interview, the Chairman of the Licence Suspension Appeal Board had indicated that, "it's bad enough to put a bad driver on the road with four wheels but it's worse to put a bad driver on a motorcycle." My investigator also advised that during the same conversation, the Chairman also stated, "with a little twist of the wrist" a motorcycle could be approximately 20 kilometers over the speed limit. It appeared that the Board was categorizing all individuals who operate motorcycles as being a higher risk than individuals who operate passenger vehicles.

We felt it was improperly discriminatory for the Board to conclude that the granting of a restricted licence, for the purpose of operating a motorcycle, was contrary to the public interest. Further, we felt that for the Board to establish a policy on that basis was unfair. It was our opinion that each application for a restricted licence should be considered on its own merit taking into account such factors as the attitude and ability of the applicant. Consequently, I recommended that the policy which did not permit a motorcycle to be operated on a restricted licence be waived, and that consideration of the granting of a provisional licence be based on the conditions set out in Section 279(6) — formerly Section 253(3) — of The Highway Traffic Act.

Following the submission of my recommendation I was advised, by the Minister, that instructions have now been given to the effect that provisional licences are to be granted on the same basis and with the same regard for exceptional hardship and public interest for all motor vehicles defined under the Act.

84-230-1 **Manitoba Energy and Mines**

Delay in action by Department regarding complaint under the Cut Home Energy Cost program.

A lawyer, writing on behalf of his clients, felt that there had been an excessive delay in obtaining assistance from the Department of Energy and Mines with respect to a complaint under the Cut Home Energy Cost (CHEC) program. His clients had purchased interior storm windows from a company and felt that these storm windows were falsely represented to perform up to certain standards and, to make matters worse, the windows were installed incorrectly.

The lawyer indicated that attempts to have the company take corrective action to repair the deficiencies had failed and that he was now requesting that the Department of Energy and Mines take action against the bond which the company had deposited with Manitoba Hydro. It was the lawyer's understanding that the bond was for the purpose of establishing a fund out of which an aggrieved consumer could seek recourse if the company were unable or unwilling to remedy defects in products they supply and install. The lawyer was concerned that the Department had taken no action against the bond.

Our office made inquiries with the Department to determine the purpose of the bonding and the procedures followed when complaints are received against the company that is bonded. We received information concerning the objective of the CHEC program and the role the bonding process plays within these objectives. We were advised that the objectives of the CHEC program are to stimulate energy conservation and employment in related industries. To achieve these objectives, a low interest loan program is provided to finance residential energy conserving retrofits.

The CHEC program is built on the premise that the utility involved acts strictly as a means to achieve convenient repayment of any loans made under the program. Decisions, and thereby responsibility, for such loans rest with the homeowner. The province acts in an advisory capacity to help the homeowners in their choice of contractor or materials. A measure of quality control is undertaken through inspections and in the bonding process. However, priority is given to achieving remedial work through voluntary contractor compliance. Claims may be made against the bond as a last resort when it is clear the company has been given every opportunity to meet its obligations under the contract but has failed to do so.

In the case of our aggrieved consumers, after negotiations with the company failed to ensure that remedial work would be undertaken to their satisfaction, a claim was made against the bond.

In reviewing the steps that led up to this last resort, we did not see grounds upon which we could make a recommendation to improve this system. The process of claiming against a bond is a long process. It was noted that a dissatisfied homeowner can take legal action against the company at any time and that once a judgement against the company has been received, the pulling of a bond is not so lengthy a process.

We also noted, during the course of the office's investigation, that the procedures to be followed when making a claim against a bond are relatively new. Due to the newness of these procedures, they may not have been followed in this case. However, the program expected these procedures to be refined once the benefit of experience was behind them.

We did not feel that we were able to make a recommendation that the procedures to be followed when making a claim against a bond should be changed or abbreviated. The loan contract is an agreement between the contractor and the homeowner. In this regard, the Department's role is to advise and, secondly, to negotiate voluntary compliance if the contractor fails to meet its obligations. The Department will initiate the pulling of a bond only as a last resort. There are written procedures which have been formulated for claims against contractor bonds. We were satisfied that these procedures are clearly stated and are not unreasonable.

The file was concluded as not supported.

84-230-2
84-230-3
84-230-4
84-230-5
85-120-1
85-120-3
85-120-5

Manitoba Energy and Mines

Concerns about the administration of the Manitoba Surface Rights Board.

During the latter part of 1984 and early 1985, a number of complaints were received from individuals in the Virden and Waskada areas relating to the administration of the Manitoba Surface Rights Board. Consequently we found it necessary to conduct a thorough review of the Surface Rights Board. Following is a summary of the major allegations and complaints brought to our attention concerning the Surface Rights Board.

Allegation 1: A conflict of interest existed in having the Surface Rights Board under the direction of the Minister of Energy and Mines

During the course of our review, this issue was repeatedly raised by our complainants and counsel acting on their behalf. The perception was that as the Manitoba Government had an interest in oil exploration and drilling which is managed under the Energy and Mines portfolio, the rights of the landowners and the interest of the government were in conflict. The view expressed to our office was that officials in the Department of Energy and Mines had the opportunity to manipulate decisions of the Surface Rights Board to benefit the oil companies.

During our investigation we found no evidence or indication that officials of the Department of Energy and Mines were involved in the operation of the Surface Rights Board or that there had been any attempt to further the interests of that Department to the detriment of the landowners. We were satisfied that the Board had been allowed to operate on an independent basis. However, the perception of conflict of interest persisted in the minds of the landowners. In response to this concern, the responsibility for the Surface Rights Board was transferred from the Department of Energy and Mines to the Department of Municipal Affairs.

Allegation 2: The size and the make-up of the Board was inadequate

We learned during our investigation that originally six members were appointed to the Surface Rights Board. This Board was subsequently reduced to a three member Board. It was indicated to us by complainants that two of the removed members had brought to the Board some background and experience in matters concerning the oil industry. It had been stated that with the removal of these members, the Board had been left in a position of having three members unfamiliar with the oil industry and without any experience to draw upon. It appeared that the government's action of removing these members had increased the feelings of distrust that the landowners had towards the Board. The removal was viewed as having left the landowners without representation on the Board by individuals with an understanding of the difficulties that the landowner faced in having well sites developed on his land.

Our investigations disclosed that there were varying opinions among the Board members themselves as to the adequacy of a three member Board with two of the members feeling that an enlarged Board could be valuable. We took seriously the concerns expressed by the two Board members as to the draw backs of the three member Board which was operating. One of the Board members had observed that often the decision-making process became a one man decision in that when one Board member took one position and a second Board member took an opposite position, the third Board member ultimately made the final decision depending on whose position he sided with. It was indicated to us that this could make for one sided decisions and that it would be valuable to have more members to ensure that the decisions being made were not one sided.

Allegation 3: The Board is bias and prejudicial

This statement was made to us repeatedly during the course of our investigation by complainants who were repeating a statement reported in the local press and attributed to a justice of the court. Based on our investigation we were satisfied that there was no evidence to support that the members of the Board were biased or prejudicial; although if one were to review a given case without the advantage of interviewing the Board members individually, one might be left with this impression. As a result of our investigation, it was our impression that the members of the Board had not been adequately instructed on the basic principles which must be followed by an administrative tribunal in the exercise of its authority to actually ensure fairness to all parties, while at the same time ensuring a perception of fairness in the decision-making process.

It was our observation that the members of the Board seemed to lack sufficient understanding of The Surface Rights Act and the actions that they were authorized to take by virtue of that Act. In discussing specific sections of the Act, the members of the Board appeared to have great difficulty in interpreting these sections and applying them in a uniform fashion. This, coupled with a lack of understanding (as previously mentioned) of the rules of natural justice, resulted in numerous court challenges. Of equal concern was the fact that, on several occasions, the Board had requested legal advice from legal counsel and had misinterpreted this advice in its application.

It was clear, from our review of Board minutes, that the interpretation issues and the Board procedure troubled the Board itself. It was our opinion that the Board must receive some instruction on statutory interpretation, as it related to the Surface Rights Board, and perhaps of equal importance, a full and complete explanation of the rules of natural justice and their application to ensure a result that was not prejudicial to those coming before the Board, and to avoid unnecessary litigation.

We were satisfied that the Board members had attempted to be fair in conducting hearings and in making decisions. It was our view, however, that they had not been provided with the necessary tools to ensure success.

Some Other Important Issues

Interim Right of Entry

Section 27(1) of The Surface Rights Act provides for the granting of an interim right of entry. This section perhaps caused the greatest difficulty to both the Board and to the landowners. The minutes of meetings are evidence of lengthy discussions by the Board members in attempting to arrive at a proper interpretation of this section, the Board's authority, and the Board's obligations. At the time of our investigation it did not appear that this matter had yet been resolved.

It is clear by virtue of Section 27(1), that the operator has a right, following the filing with the Board of a notice as provided in Section 23(1) of the Act and after providing to the occupant of the land in question seven clear days notice in advance, to apply to the Board for an interim order granting surface rights.

Section 27(2), however, states:

> *"Undue hardship.*
> *27(2) The board shall not grant such interim order unless it is satisfied that undue hardship would result to the operator if the order is not made, and that the undue hardship outweighs any prejudice to the interests of the landowner, or occupant if any."*

It was our opinion that this was to be a two part test; firstly that the operator must show undue hardship and, secondly, that the undue hardship shown must outweigh any prejudice to the interests of the landowner.

In reviewing the file material relating to one specific complaint, it was noted that the application by the oil company did not contain an indication of undue hardship. The landowner filed an objection stating as one of the reasons for the objection was that there had not been an allegation of undue hardship by the oil company.

In discussing the issue in this particular case, it became clear that the company had detailed the circumstances of its hardship in a letter directed to the Board dealing with a number of well sites, some owned by the respondent in this matter and others owned by other landlords. It appeared from our discussions to be normal practice that applications did not contain particulars of the hardships alleged by the oil companies. Accordingly, we felt that a landowner would not receive details of the hardship, although the landowner was placed in the position of being required to satisfy the Board of how the order would prejudice his interests so that the Board might make a decision as to whether the undue hardship outweighed the prejudice to the owner.

It was our opinion that the landowner, at the time of receipt of the notice of intention and application, should receive full particulars of all matters being placed before the Board by the applicant in order that the landowner in filing his objection might do so on the basis of all relevant information. It was felt that to require the landowner to file an objection stating the prejudice to his interests without full knowledge of the undue hardship claimed by the oil company would place the landowner at a disadvantage.

From our discussions with the Board members, we were not satisfied that the importance of this issue was recognized. It also appeared that there were varying degrees of understanding of the issues. We were concerned that the Board did not appear to understand the caution which must be exercised in dealing with interim orders. It was noted that legal counsel to the Board indicated that he had advised the Board that if an application for interim right of entry did not contain a statement outlining the undue hardship the oil company was alleging, then the application should not be accepted for hearing but should be returned for proper completion. This had not happened in the particular complaint to our office, where the oil company's application did not contain an indication of undue hardship; rather, in that case the matter had proceeded to hearing.

No Regulations to Govern Board Procedures; Misunderstandings and Inconsistencies

At the time of our investigation, the Board was operating without regulations to the Act and most matters were dealt with by way of motion to establish Board policy. There was considerable confusion among landowners dealing with the Board as to what the requirements were in terms of documentation. Our review disclosed that members of the Board felt that upon receipt of an application for interim right of entry by an oil company, an order must be issued, if no objection has been received from the landowner. However, it was our opinion that regardless of whether an objection was received from the landowner, unless the test set out in Section 27(2) of the Statute were satisfied, the Board lacked the authority to grant such an order.

We also had concerns regarding the handling of information by the Board on a day-to-day basis. A situation arose in which an adjournment was granted to counsel acting on behalf of a landowner, with the understanding that the hearing date would be rescheduled. Subsequently, the Board policy was amended to the effect that hearings would not be required into the type of application which had been made by the oil company in this case. Legal counsel acting on behalf of the landowner was not advised and simply received a letter from the Board containing an interim right of entry. It was necessary for the landowner to file an appeal in the court which was granted. In addition, we understand that costs were awarded against the Board in favour of both the oil company and the landowner. In discussing this matter with the Board, we were advised that the agreement as to the adjournment had not been drawn to the Board's attention although it was acknowledged that this agreement had been made.

We were of the opinion that the agreement should have been documented and should have been attached to the material to be presented at any hearing or decision meeting. It was our opinion that in view of the Executive Director's involvement in the discussions and communication of the agreement and his responsibility for the day-to-day operations of the Board, it would appear that this would have been his responsibility. In addition, we were advised that the Executive Director attends all meetings of the Board and prepares the material for Board members for the purposes of a hearing or decision meeting.

Our investigation revealed that there was sufficient confusion amongst landowners and legal counsel to support the need for clearly defined policies and procedures, some of which we felt should be established by way of regulation.

Discretion of the Board

In reviewing a complaint we noted that the Board had, in granting an order, waived a section of the Act and stated that it would not apply. There did not appear to be any authority in the Act to permit the Board to waive this section. The issue was discussed and two of the Board members indicated that they were not aware as to whether there was a discretionary section of the Act which would permit them to waive a section. One of the Board members did indicate that to his knowledge there was no discretionary clause contained in the legislation which would permit this waiver. It was of concern that the Board did not consider the issue as to whether they had the discretion to waive this section, and that they were not aware that they were lacking the discretion.

Authority of the Chairperson and Executive Director

In our review of another specific case, we found that the Executive Director and the Chairperson of the Board had dealt with an issue of interpretation on an application and, without referring the matter to the Board for a ruling, had simply notified the applicant that his application would not be accepted. We were concerned that a matter concerning an interpretation and a ruling on an application was not placed before the Board but rather was dealt with by the Chairperson and Executive Director in this fashion.

We also found that in another situation a Board order, which had been issued and which required an amendment, was simply amended by the Executive Director and the Chairperson without referring the matter back to the Board to obtain its approval.

In another case we were advised that an application for an interim right of entry had been heard and that a decision meeting had taken place but that a vote had not been taken. We were advised that ultimately the matter was dealt with on the basis of a telephone poll of some of the members who sat at the decision meeting. Two of the members advised that they had not been contacted for the purposes of their vote. We felt that it was important that the role of the Chairperson and of the Executive Director be clarified both for their benefit and the benefit of the Board. We felt it imperative that the Board be aware of the limitations on the authority of both the Chairperson and the Executive Director, and also that the Board understand what matters must be decided upon by the Board as a whole.

Compensation Issues

There appeared to be general dissatisfaction among the landowners with the amounts of compensation being awarded by the Board. An issue consistently raised by each of the landowners was the matter of negotiations with the oil companies. It has been indicated that with some of the oil companies, in actual fact, there is very little negotiation. It would appear that the experience of many has been that the oil company makes an offer and that if not acceptable to the landowner, the oil company will simply refer the matter to the Board without further discussion.

Section 23(1) of the Act provides the authority to make application to the Board for settlement of any dispute relating to surface rights, compensation, interpretation of a lease or agreement, or the exercise of any right or performance of any obligation under a lease or agreement. This section seems to presume some type of negotiation as it indicates an application may be made "where an operator and the owner or an operator and the occupant, as the case may be, are unable to agree upon the surface rights." We were of the opinion that it may be appropriate to consider setting out requirements for negotiation between the oil company and the landowner prior to any application being accepted by the Board for hearing. We felt that this might have the result of reducing the number of applications coming before the Board and also might result in a compensation award more acceptable to the landowner and more in line with that freely negotiated between landowners and oil companies at the present time.

Conclusion

In summary, it was our opinion that the difficulties which the Board had encountered, evidenced by unnecessary litigation, adverse publicity, and a feeling of animosity by the landowners towards the Board, had resulted primarily, if not solely, from a lack of understanding on the part of the Board as to the basic rules and principles of natural justice, and a basic lack of understanding of The Surface Rights Act and its application and interpretation. This had contributed to a situation where, in some instances, landowners have been forced to take appeal action at great expense. We felt that the lack of clearly defined policies and procedures had created considerable confusion on the part of landowners attempting to present their cases to the Board.

Based on our investigation we recommended that:

1. The Board be expanded to include people who had the experience and qualifications compatible with the responsibilities of making decisions relevant to surface right matters. We took seriously the concerns expressed by two of the Board members as to the draw backs of the smaller, three member Board which was operating. The Board, we felt, should have an understanding of statutory responsibility and the rules of natural justice.
2. The Department immediately develop terms of reference relating to administrative procedures to be followed by the Board which would ensure procedural fairness, consistency, and equity in the performance of the Board's function, and that priority be given to developing clearly defined policies and procedures and, where necessary, to formalize these by way of regulation.
3. The responsibilities of the Board and staff be clearly defined and delineated.
4. A standard form lease, as referred to in the Act, be developed.

Following submission of our report, we received correspondence from the Minister responsible for the Surface Rights Board, that is, the Minister of Municipal Affairs, advising of changes to the Board and its function. The major change was the appointment of a full-time Chairperson on a regular part-time basis and two additional members. The new appointees brought to the Board legal and municipal experience as well as quasi-judicial Board service. This change satisfied our first recommendation. The communication we received stated the purpose of The Surface Rights Act and the Surface Rights Board as providing for:

— A comprehensive procedure for acquiring and utilizing surface rights.

— The payment of just and equitable compensation for the acquisition and utilization of surface rights.

— Maintenance, preservation and restoration of the surface of land acquired in connection with surface rights.

— Resolution of disputes between the operator (oil companies), the occupants and owners arising out of the entry upon use or restoration of the surface of land.

While this restating of the purpose of the Act and Board touches upon some of the concerns related in our report, it will still be necessary for our office to follow-up on our remaining three recommendations which were not specifically addressed in the response we received to our report. I shall probably report further on this matter in my next annual report. However, for the time being, it appears that a positive approach has been commenced with respect to improving the administrative procedures of the Manitoba Surface Rights Board.

84-280-75 **Manitoba Health**

Individual reportedly refused help by mental health centre

As a result of newspaper articles alleging that an individual had been refused admittance to the Brandon Mental Health Centre and had subsequently committed suicide, the Ombudsman, in accordance with Section 15 of The Ombudsman Act, gave notice of his intention to investigate the matter.

From our review of this matter, we determined that the individual in question had been a patient in the Brandon Mental Health Centre in 1981, 1982, and in September of 1984.

On October 10, 1984, the individual attended the Brandon Mental Health Centre for an out patient examination. We understood that a few days after his examination he became physically ill. Contact was established with the Brandon Mental Health Centre by a member of his family who was advised that, as it appeared to be a physical problem, he should be taken to a physician. As a result, he was admitted to a general hospital on October 14, 1984. The admitting physician indicated that in addition to the physical complaints which the patient expressed, he had "some suicidal thoughts about killing himself with a rifle".

The records of the hospital indicate that the patient's stay at the hospital was characterized by extremely agitated and unusual behaviour. In addition, we were advised that staff had approached the administrator of the hospital expressing concern in regard to their personal safety as it was alleged that the patient had threatened a male nurse.

On October 15, 1984, the patient disclosed to the staff at the hospital that he had previously been a patient at the Brandon Mental Health Centre and had been receiving weekly injections of medication. As a result of this disclosure, the doctor contacted the Brandon Mental Health Centre and spoke with one of the staff physicians at the institution. We understand that, at that time, the doctor indicated that he was seeking to admit the patient to the Brandon Mental Health Centre, but it would appear that he was advised that the staff physician could not authorize the admission.

As a result of the doctor's contact with the Brandon Mental Health Centre, the Clinical Director of the Brandon Mental Health Centre instructed a physician at the Brandon Mental Health Centre to follow-up. At the time of contact with the doctor, information was provided as to the type of medication that the patient had been on and the type of medication which could safely be given to him. In addition, we understand that the doctor was advised that contact could be initiated with the Clinical Director who would be in a position to certify the patient if necessary and admit him or, if the patient was willing to come in voluntarily, the Clinical Director could authorize his admittance on a non-compulsory basis.

We understand that the doctor subsequently contacted the Clinical Director directly to discuss the matter. The Clinical Director has confirmed that she agreed to admit the patient to the Brandon Mental Health Centre, regardless of whether he came on a voluntary or a compulsory basis.

Following the telephone conversation with the doctor, the Clinical Director advised one of the staff physicians and the Acting Charge Nurse on the admissions ward that the patient could be expected and that, although she had not formally authorized the admission, if she were in the hospital at the time of his arrival that she would admit him and, if she were unavailable, that the doctor on call could do the admission. During our review, the Clinical Director indicated that she felt it had been very clear to the nurses on the admissions ward that the patient was to be admitted and the only question being under what method.

Upon arrival at the Brandon Mental Health Centre at approximately 4:30 p.m., the patient, accompanied by his brother, was directed to the admissions ward. The Charge Nurse on duty at the time of his arrival, who had received the instructions from the Clinical Director regarding the patient, directed one of the other nurses on duty to proceed with the admission. As the Clinical Director appeared to be unavailable, the physician on call was contacted. We have been advised that, at the time of the physician's telephone contact with the admissions ward, the nurse dealing with the admission repeated twice the Clinical Director's instructions that the patient was to be admitted.

The Clinical Director has advised that as she was leaving the hospital, she met the physician coming in the back door of the centre. We have been advised by the Clinical Director that a conversation took place at that time wherein she advised the physician that the patient was to be admitted. During an interview with the doctor, he acknowledged that a conversation did take place, but denied that the conversation pertained to this patient.

The nurse dealing with the admission advised that at the time of the physician's attendance on the ward, he (the nurse) once again attempted to repeat the instructions but was advised by the physician that he had just met and spoken with the Clinical Director as she was leaving the hospital. We understand that the physician, when speaking to the nurse, did not elaborate on his conversation with the Clinical Director.

Reportedly, the physician was provided with copies of the charts from the referring hospital which contained the information that the patient had expressed suicidal thoughts. We understand that the physician proceeded to interview the patient.

We were informed that, at the time of the patient's arrival on the ward, a request had been made to the central nursing office to have his file at the centre delivered to the ward. Prior to receipt of the file, we understand that the physician indicated that he was not prepared to admit the patient. According to the nurse involved in the admission, prior to the conclusion of the interview, the patient's file was located and, although the physician reportedly was advised by the nurse as to the medication that the patient had been prescribed, it does not appear from the information we received that the doctor referred to the file prior to confirming that he was not going to admit the patient.

Subsequently, the patient and his brother left the hospital to return to their home. Approximately one hour after their arrival at home, the patient shot himself, causing death.

The physician advised our office that he had not received any instructions from the admissions ward regarding the patient, that the file of the Brandon Mental Health Centre for the patient had not been located during the time period when he was interviewing the patient and, he therefore, did not have an opportunity to review the file. This information was in direct conflict with the information received from the Clinical Director and from the nurse involved in the admission.

The admission criteria for the Brandon Mental Health Centre includes admitting an individual who is "expressing suicidal thoughts, intents, or actions". It would appear that the patient fell within this criteria and should have been admitted to the Brandon Mental Health Centre.

During our investigation we were advised that, if the nursing office felt that a physician was not acting appropriately with respect to a particular patient for admission, contact could be initiated directly with the Clinical Director. On this point, from information received during our review, it would appear that the nurse on at least two occasions expressed his concern to the Acting Charge Nurse to the effect that he felt the patient should be admitted.

The nurse advised our office that he was not aware that the nursing office had the authority to contact the Clinical Director directly if it was felt that a physician was acting inappropriately with respect to an admission. This issue was addressed with the Acting Charge Nurse who advised that she was aware the Clinical Director could be contacted and advised that normally she would initiate contact with the Clinical Director if she were concerned about an admission of a particular patient. She indicated that in this case, she had not made contact with the Clinical Director based on the concerns expressed to her by the nurse, as she was not involved in the actual admission and did not feel justified in taking any action.

As the Charge Nurse, she was the nurse to whom the duty nurse was required to report, and as he had expressed concerns to her during the physician's assessment interview with the patient, and as she had received specific instructions from the Clinical Director with respect to the patient's admission, it was our opinion that there was some onus on the Charge Nurse to initiate contact with the Clinical Director when it appeared that the patient was not going to be admitted.

In view of the Clinical Director's indication that it had been her intention to admit the patient, we felt that it would have been more appropriate to have formally authorized the admission immediately following her consent to admit the patient, rather than leaving instructions for the admissions office or other physicians who may or may not be on call at the time when the patient arrived at the centre.

From our review, we understand that generally attempts were made by the Brandon Mental Health Centre to schedule all admissions prior to 1600 hours (4:00 p.m.). We were advised that this was a guideline developed to create some order to the admission procedure. From our discussion with the physician, it appeared that some confusion existed surrounding this guideline in that it has been interpreted to be a firm rule to the effect that only emergency admissions could be made after 1600 hours.

In summary, we felt that a number of factors contributed to the refusal to admit the patient to the Brandon Mental Health Centre, and these were:

1. The lack of a formal authorization to admit him.
2. That the verbal instructions of the Clinical Director, with respect to his admission, were not followed.
3. An apparent failure to give proper weight to the information contained in the referring hospital's records which disclosed that the patient had expressed "some suicidal thoughts about killing himself with a rifle".
4. The lack of review of the Brandon Mental Health Centre file relating to the patient's previous admissions which would have disclosed an attempt to overdose on unused medication during August of 1984.
5. The fact that the Acting Charge Nurse on the admissions ward did not initiate contact with the Clinical Director to review the instructions given, particularly in view of concerns expressed by a nurse on two occasions regarding the refusal to admit the patient.
6. An apparent misunderstanding of the intent and firmness of the regulations regarding after-hour admissions to the Brandon Mental Health Centre.

As a result of our review of the matters surrounding the refusal of admission to the Brandon Mental Health Centre and the patient's subsequent suicide, the following recommendations were made:

1. That the admission procedures be revised so that where a consent to admission has been given by the Clinical Director or any physician having the authority to admit, the admission be formally authorized immediately following the consent being given. If, for any reason, such formal authorization is not possible at the time, precise **written** instructions regarding the admission should be placed on file and should be given to the assessing physician at the time of the assessment interview.
2. Where a patient arriving for admission has been a patient of the Brandon Mental Health Centre previously, or where medical records accompany a patient arriving for admission, that a thorough examination

of the existing records be conducted prior to any decision on admission being made.

3. When a patient who is not a prior patient of the Brandon Mental Health Centre or is not accompanied by current medical records attends for admission, that wherever possible, consultation be made with any private physician currently involved in the patient's care, prior to any decision being made which would result in the **refusal** of admission.
4. That a directive be issued to staff outlining the policy relating to making contact with the Clinical Director where concern is felt that appropriate procedures are not being followed and providing the authority for such direct contact to be initiated with the Clinical Director or any physician who has been designated as being responsible for the centre in the absence of the Clinical Director. This directive should also outline the responsibility of those members of the nursing staff who are functioning in a supervisory position to ensure that concerns expressed by staff members reporting to them are communicated to the appropriate individual.
5. That the regulations regarding after-hours admissions to the Brandon Mental Health Centre be reviewed and that a clear explanation of the policy surrounding after-hours admission be developed and distributed to all staff involved in the admission process, including staff physicians at the Brandon Mental Health Centre.

Following consideration of our recommendations, we were advised by the Minister of Health that efforts were being made to ensure that our recommendations were being adhered to and that steps had been taken to include them in the formal admission policy.

85-290-113 Manitoba Health

Alleges Unfair dismissal from employment

An employee lodged a complaint against his employer stating that he was unfairly dismissed and that he was not given a fair hearing.

We made inquiries with the employer and the employee's personnel file was examined and the documentation reviewed. We reviewed the Employment Standards Act and relevant arbitration cases.

We advised the complainant that under the Ombudsman Act, all evidence that is gathered during the course of an investigation is confidential. However, we assured the employee that all the information gathered had been carefully considered.

We were advised that the employee had been accused of certain actions, and had been given a formal reprimand in the form of a memorandum. In this memorandum it was stated that, if a more thorough investigation of the accusations were found necessary and a more severe disciplinary action required, the employee would be notified. This memorandum carried a signature indicating that the employee had received, read, and understood the contents.

Although there was no established grievance procedure under any union contract at the time, a union representative had been present at the meeting for the purpose of assisting the employee if necessary. The employee was informed that his employment was being terminated for repeated consumption of alcohol during working hours, lying to his employer, threatening other persons, and threatening another employee with physical violence. We were advised by the union representative that the employee was given the opportunity at this meeting to respond to these allegations. However, we understand that the employee chose not to respond.

We reviewed the documentation which accompanied the allegations against the employee and were satisfied that statements taken from witnesses supported these allegations. We were advised by the employer the incidents in question were considered to be grounds for dismissal, and, on the basis of the cumulative evidence of unacceptable conduct, the employee was dismissed.

In reviewing this matter we noted that, although there was no legal requirement for the employer to hold a hearing, the employee was provided with reasons for his dismissal and was given the opportunity to be heard. The file was concluded as not supported. In addition, based on the evidence received, we were satisfied that the employer's decision to dismiss the employee was not clearly wrong or unreasonable.

83-310-31 Manitoba Highways and Transportation

Problem re tender for construction

During 1977, a tender was called by the Department of Renewable Resources for the construction of a road in Northern Manitoba. The company which submitted the lowest bid alleged that they had been led to believe, by Departmental officials, that they had been successful in their bid and that the project simply required a rubber stamp approval from the Treasury Board; and, futher, that they had been encouraged to take positive steps towards preparation to perform the contract. However, this project did not proceed and the company alleged a financial loss as a result.

In 1983, my office was requested, by The Honourable Samuel Uskiw, who at that time was Minister of Highways and Transportation, to investigate this matter and to determine whether the Government of Manitoba had any obligation to the company. Subsequently, the company also requested that our office accept this matter as a complaint.

Due to the reorganization of the Department following the closing of tenders, many of the original documents were unavailable. For the purposes of our investigation, we reviewed all available documentation supplied by the Department and conducted interviews with appropriate individuals (including current and former employees) who were available to shed some light on this matter.

The particular project was to have been financed on a cost-sharing basis between the Provincial and Federal Governments as a part of the Northlands Agreement. The funds, to be advanced by the Federal Government, were to be provided through the DREE Program.

During the course of our investigation, documentation was provided to us by the Department, including certain notes dated February 21, 1979 with respect to this project which had been prepared by an engineer with what was then the Department of Renewable Resources. In discussing these notes with the engineer, who has since retired, we were advised that, prior to the closing of tenders, he was convinced that the project would not proceed, as a memo had been received from the Northlands Agreement Management Branch, dated December 13, 1977, which indicated that the project would not be shareable for at least the foreseeable future. He indicated that, once the memo had been received, he contacted the Deputy Minister to inquire if, in view of the memo, the advertisement for tenders should be cancelled. He advised that the answer that he received was in the negative.

We understand that tenders were invited, by way of advertisement, on December 10 and 14, 1977. The advertisement for the tender contained the statement, "The lowest or any tender not necessarily accepted."

As well, the tender documents required to be executed by any contractor submitting a bid contained the following statements:

> *"The lowest or any tender may not be necessarily accepted."*
> *and,*
> *"Acceptance of any tender is conditional upon sufficient funds being approved for this project."*

The tender closed on December 29, 1977. There were three bidders. We were advised that with Government tenders, generally the acceptable range of excess over the engineer's estimate is 10%. We were also informed that, under normal conditions, if the low bidder is within the 10% range, the contract is awarded to that bidder. Our complainant's bid was within the 10% range.

We were advised by the company that the usual trade practice was that, if a bidder were low on a tender, the particular Department involved would be contacted and inquiries would be made as to whether the bid fit within the 10% range and whether the unit prices and the calculations of the extensions were correct. In addition, inquiries would be made as to whether there were any particular problems with respect to the project that the contractor should be aware of. We were further advised that, if the answers to the inquiries were positive, it had been a practice of the Department to indicate that the matter looked in order. On that basis, it had been the usual course for the contractor to commence repair of equipment and to take positive steps towards mobilization to the job site. During an interview with the then Associate Deputy Minister, he confirmed that this had, in fact, been the practice. Although he could not specifically recall such a call from the company he advised that if he had received such a call he would have responded, "Yes, the job looks good."

The company President advised that, over the Christmas period of 1977, he had attended a Christmas party at which a contract engineer with the Department, who later became the Deputy Minister, indicated to him that he should not get too excited about the job because there could be problems. Apparently this engineer further indicated that this was not official notice. the company President was concerned by this statement and allegedly attempted to pursue it with him, but the engineer reportedly refused to go into detail. The President indicated that after the comment was made he personally contacted the Associate Deputy Minister to inquire "how things looked". He indicated that he advised that he should have his equipment ready to go. During our investigation, when questioned about this, the Associate Deputy Minister advised that, if the President had contacted him suggesting he was going to start taking steps towards mobilizing, he in all likelihood would have indicated to him "why not" as he felt it was just a matter of time until the approval.

During the course of our investigation, we were advised that, due to the swampy conditions of the land in Northern Manitoba, road construction is generally carried out during the winter months as with freeze up there is a bit of consistency to the ground which facilitates road construction. On that basis, it would have been necessary to perform this project between the months of January and the end of April 1978.

On the basis of the Associate Deputy Minister's indication that the equipment should be ready to go, the complainant commenced making arrangements to mobilize. We were advised that while a piece of equipment might be quite capable of performing several months in the inner part of Manitoba, due to the conditions in the northern area, it is necessary to effect rather extensive repairs, particularly to the undercarriage, to ensure that the equipment would perform at its maximum level and avoid breakdowns.

The President of the company indicated that, during this time period, he visited at the office of the Department regularly and also called by telephone, once or twice a week. He advised that he was very concerned that, even if the job were awarded, there would not be sufficient time in order to complete the contract prior to the thaw. He advised that each time, on making contact with the Associate Deputy Minister, the indication was always "just a matter of a Committee meeting" and that the "change in Government had slowed things down". The President of the company indicated that the general tone of these discussions and indications was that the Committee was simply a rubber stamp approval to the contracts. He said he was advised that the Committee had a backlog and that they would be getting to it very quickly and it was just a matter of them meeting on it.

In discussing this matter with the Associate Deputy Minister, he stated that there had been a preliminary approval of the plans for this particular road under the Canada/Manitoba Northlands Agreement, therefore the money was available through the Federal Government cost-sharing program and it simply required the approval of the Provincial Government for the job to proceed. He further indicated that, in his opinion and in the opinion of other members of the Department at that time, it was simply a matter of waiting for an approval which would normally just be a formality.

The Associate Deputy Minister also advised that, in many instances where tenders had been called and closed, the work was actually being performed by the contractor prior to any award being made. This was also confirmed by a contract engineer who had been with the Department. The Associate Deputy Minister also indicated that, generally, the Minister would indicate that he was going to push a project through and one hundred percent of the time this is what actually happened, and the Treasury Board ultimately gave the approval.

We were advised that the company had just completed a job in Jenpeg for the Provincial Government, and under normal circumstances, the company would have returned all equipment to Winnipeg for storage in the Winnipeg yards but that, with the encouragement of the Department that the job would be awarded, the equipment was moved to Thompson where a hangar had been rented and the company continued to hold an office in Thompson open. Reportedly, repairs which, under normal conditions, would have been performed by the company's own staff in Winnipeg, were performed at additional cost in Thompson in order that the equipment would be ready. In addition, to avoid high costs of rail transportation of equipment to the job site, the company had men, in the area of the project, flooding the ice in order that they would be able to cross the lake.

The company President also advised that an engineer with the Department had suggested to him that he leave his bid bond with the Government. The company did so as it was felt that the job would be awarded and it was simply a matter of time. However, as a result of this, the company's bonding ability was severely limited. The engineer confirmed that he had suggested that the bond remain as he felt that, if there were any chance that the job might be awarded, the company would stand a better chance of receiving the contract than if the bond had been removed.

During the month of June 1978, when the time period during which the job could have been performed had long passed, the President requested the return of the bond as this was severely interfering with his ability to carry on a normal operation.

We were advised that the company had waited such a length of time before deciding to give up in terms of obtaining the job and, after equipment repairs had been completed and the equipment moved into Thompson, the expenditures were so great that the company simply could not walk away. In addition to losing a season's work by having moved the equipment to Thompson and the reduction in bonding ability, the company was also caught in the problem of road restrictions and, in order to return equipment to Winnipeg, it would be necessary to hire rail transportation at considerable cost compared to that of using a low bed.

Following the return of the bond, the President did not contact the Department with respect to the job per se but, rather, took the position that there should be some compensation forthcoming and attempted to deal with the situation from that perspective.

In discussing with the Associate Deputy Minister the question as to whether, in his opinion, he and other members of the Deparatment encouraged the company to believe that the job approval was simply a formality and whether or not the company was encouraged to take active steps towards readiness for the project, he confirmed that he is satisfied in his own mind that the company was indeed encouraged and may have suffered a loss as a result.

It was our view as based on the information reviewed that the company was indeed encouraged and was led to believe that the contract would, in fact, be awarded. In addition, it would appear that the company was encouraged to take positive steps towards mobilization, which included the repairs to equipment, flooding of the ice, and retention of a Thompson office and hangar. We felt that the company did, in fact, suffer a loss which could be attributed to the manner in which the Department of Renewable Resources dealt with the company in connection with this particular contract and, as a result, it was our view that the Government of Manitoba had responsibility to the company.

Accordingly, I recommended that the Government through the Department of Highways begin negotiations with the company to document financial loss directly related to the tender and that efforts be made to obtain a mutually satisfactory agreement re compensation. Although our report was submitted to the Minister of the Department of Highways and Transportation, he chose to prepare a submission and place the matter before Cabinet. Cabinet initially refused to accept my recommendation. Following notification of this decision, I prepared a report for submission to Cabinet.

On March 15, 1985, I was advised that Cabinet had accepted my recommendation, and had directed that the Minister begin negotiations with the company to determine a fair settlement.

Those negotiations were carried out in accordance with my recommendation and a settlement was reached. The company received $86,012.00 as compensation for losses related to the project.

85-300-8 **Manitoba Highways and Transportation**

Alleges he paid too much for permit and can't get a refund.

My office was contacted by the operator of a tractor trailer unit who had purchased an overweight permit allowing him to haul overweight loads from the period January 4, 1984 to April 4, 1985. When the overweight permit was purchased, our complainant had his wife attend at the appropriate Highways and Transportation office to complete the necessary forms for the permit. At the time, she did not have the registration in her possession as her husband stated that he was required to have it in the vehicle while engaged in his occupation as a truck driver. The government official who sold the permit indicated at the time that he could make the necessary checks as it relates to vehicle weight and licence number through his computer. This was allegedly done and resulted in a charge of $108.00 being made for the permit.

Subsequent to the permit being purchased, our complainant stopped at a weigh scale and the inspector, upon examining the overweight permit and registration, indicated that he had been charged $80.00 too much for the overweight permit. Our complainant's wife visited the appropriate government office again and requested a refund. Reportedly it was indicated to her that there was nothing which could be done as a permit could not be rewritten, nor did the office give refunds. She also attended at the Motor Vehicle Branch office located at 1075 Portage Avenue, but they were also unable to be of assistance to her.

Upon contacting the Construction and Maintenance Branch of the Department of Highways and Transportation, my office was advised that that office was responsible for the issuing of the overweight permit. It was explained that a problem existed in that initially the registration card was not provided, and that staff had not confirmed the actual Registered Rating Factor through a computer check. As a result of this, the wrong information was used as a basis for calculating the cost of the overweight permit and our complainant was overcharged $78.55.

Upon discussing this matter with the appropriate official, my office was advised that the Department accepted some responsibility in this matter as they had not initially checked their computer to determine the gross vehicle weight of the tractor trailer unit at the time when our complainant's wife first made the application. It was also indicated that there had been a breakdown of communication in the office when our complainant's wife returned to the office in order to resolve the problem. The indication was given that as a result of what transpired in this particular case, a discussion would be held with staff concerned in order to ensure that this kind of a problem does not recur.

If our complainant had been in possession of the registration card at the time when the application was made for the overweight permit, some of the above noted problems conceivably could have been prevented. Having indicated this, it would also appear that the Department of Highways and Transportation could have checked their computer to ensure the accuracy of the information on the permit. In addition, at the second visit by our complainant's wife to their office, Department officials should have been able to resolve this matter.

In any event, as a result of our review of this matter with the Department, a refund was issued to our complainant who was pleased with the resolution of this matter. The promptness with which the Department responded to this concern upon being notified by my office was appreciated.

85-300-15 **Manitoba Highways and Transportation**

Disagrees with the request for a report from Alcoholics Anonymous.

During this past year my office has received a number of complaints from individuals who question the authority whereby the Driver and Vehicle Licencing Branch of the Department of Highways and Transportation makes requests for sobriety reports. This particular complaint is one example of such a case.

This complainant attended at our office and indicated that the Motor Vehicles Branch was continually requesting reports as it relates to his sobriety from an Alcoholic Anonymous group. He indicated that because he attended many different Alcoholic Anonymous groups, it was difficult for any one group to attest to his sobriety, as they did not have sufficient personal knowledge about himself to give this type of report. Furthermore, our complainant advised that with his having abstained from the use of alcohol for approximately 28 months, he did not believe that it was still necessary for him to continue supplying sobriety reports.

Upon contacting the Registrar of Motor Vehicles, we were advised that since July 26, 1967 our complainant had had five convictions for impaired driving. The most recent conviction took place on July 28, 1982 when our complainant was again convicted for impaired driving and as a result, he was entered into the Alcohol and Drug Abuse Program operated by the Driver and Vehicle Licencing Branch with the requirement that he file sobriety reports.

On January 28, 1983 our complainant was interviewed and his licence was reinstated on a probationary basis. When he failed to file the required sobriety report in May of 1983, he was again suspended in accordance with The Highway Traffic Act. When a sobriety report was again filed, our complainant's driving privileges were reinstated on a probationary basis. Our complainant, however, again failed to file the necessary reports from his sponsor and another suspension took place starting May 1, 1984. Subsequent to this, on June 7, 1985, an acceptable report was filed by his family doctor which resulted in his driving privileges being reinstated.

The Driver and Vehicle Licencing Branch of the Department of Highways and Transportation has an Alcohol and Drug Abuse Program which requires that sobriety reports must be filed every six months for a two year period attesting to continued sobriety following the "dry date". Upon reviewing this requirement it was determined, by my office, that it was reasonable and our complainant was advised accordingly.

The experience which my office has had with the Motor Vehicles Branch in problems of this nature is that the Alcohol and Drug Abuse Program is being administered in a fair and reasonable manner.

83-290-63 Manitoba Housing

Disputes Rentalsman's decision re monies held in trust.

A complaint was received from an individual regarding the disposition of his security deposit by the Office of the Rentalsman. We were advised that, pursuant to proper notice, the tenant was to vacate the premises in question on the 31st day of August 1983, and that his rent had been paid in full to that date. The tenant also indicated that his social worker had advised the caretaker of the premises that the tenant would be responsible for the cleaning of the apartment.

The tenant advised that he had removed most of his personal belongings on August 29, 1983, with the intention of returning the following day to clean the apartment and to remove several small items and the food which he had left in the refrigerator. Reportedly, on August 30, 1983, the landlord entered the premises, removed the remainder of the tenant's personal belongings, including the food left in the refrigerator, cleaned the apartment and had painters in attendance to paint. The tenant was not refunded the full security deposit because of the landlord's claim for cleaning costs. The Rentalsman arbitrated and found in favour of the landlord to the extent of $48.00.

From our review of the Rentalsman's file, we noted a letter, directed to a Rentalsman's Officer, by the social worker, confirming the arrangements made with the caretaker of the premises on behalf of the tenant. We noted that, although contact was made by the Rentalsman's Officer with the manager of the premises, there was no record of this matter being discussed directly with the caretaker. We also noted that follow-up contact with the social worker was not made and therefore, we felt we must conclude that the information which he provided was accepted.

Contact was made with the social worker who confirmed that he had contacted the caretaker of the premises and advised that the tenant would be removing his belongings from the premises on the 29th day of August 1983, and that he would return prior to the expiration of his tenancy for the purposes of cleaning the apartment.

A statement had been obtained by the Rentalsman's Officer from the caretaker, wherein she advised that she cleaned the refrigerator. Her statement read, "He left it full of food, had to throw it out — 3 hours". This confirmed the statement of the tenant that he had left food in the refrigerator. There was no mention on the file of the other items which the tenant alleged he left in the apartment. We do understand, however, that the tenant was later compensated by the landlord for the items which he alleged were discarded during the cleaning of the premises by the landlord's staff.

Following our initial inquiry to the Office of the Rentalsman for information relating to this matter, correspondence was received from the Rentalsman, dated January 13, 1984, wherein the Rentalsman stated:

> *"When a tenant vacates a premises, removing their goods and discontinuing residence in the premises, they have abandoned the balance of the term which, in this instance, appears to have comprised of 24 hours. The actions of the landlord are reasonable in this regard and the determination of the arbitrator is fair and equitable having regard for all fact."*

The Landlord and Tenant Act does not contain a definition for the term "abandonment". However, Section 94 of the Act, which deals with the issue of storage of personal property left in a premise by a vacating tenant, appears to contemplate that a vacating tenant's status may be only one of two possibilities, as contained in Section 94(2)(a) and Section 94(2)(b), which read:

(a) the tenant **abandons** the residential premises **contrary to the tenancy agreement; or**

(b) the tenant **vacates** the residential premises upon the **termination or expiration** of the tenancy agreement. (Emphasis added)

In view of the above, it would appear that a tenant may be either abandoning, contrary to the tenancy agreement, or vacating upon the termination or expiration of the tenancy agreement. The Act does not appear to provide the scope to find that a tenant, vacating pursuant to proper notice upon termination or expiration, has abandoned the premises. Therefore, as the tenant's vacation of the premises was not contrary to the tenancy agreement, he, in our opinion, should have been considered a tenant vacating upon the termination or expiration and not an abandoning tenant.

In response to our initial report to the Office of the Rentalsman, we were advised, in correspondence dated May 1, 1984,

> *"Under Section 113(1), the landlord is entitled to take possession where a "tenant has voluntarily vacated or has abandoned his premises."*

Section 113(1) of The Landlord and Tenant Act to which the Rentalsman's Office makes reference, states in full:

"Recovery of possession.
113(1) Except

(a) under the authority of an order for eviction obtained under section 111; or

(b) pursuant to a determination of the rentalsman under subsection 103(9); or

(c) where the tenant has voluntarily vacated or has abandoned the premises;

the landlord is not entitled to gain possession of the premises on the ground that he is for any other reasons entitled to possession."

In considering this matter, the relevant portion of Section 113(1) is subsection (c) which provides authority to a landlord to obtain possession of premises where there has been either a voluntary vacation or an abandonment.

The tenant had retained the keys to the apartment and had left personal property, including food in the refrigerator, on the premises. He had also expressed, through his social worker, an intention to return. These facts indicated that the premises were not vacant and supported the view that the apartment had not been vacated voluntarily or otherwise, on August 29, 1983; nor did the above facts support a finding of abandonment which appears to require removal from the premises with the intention of not returning and a repudiation of the tenancy agreement.

In view of the Rentalsman's opinion that the landlord had a right to possession under Section 113(1), it was felt prudent to obtain a legal opinion as to whether there had been a voluntary vacation or abandonment by the tenant on August 29, 1983. We received the opinion of our legal counsel which supported our interpretation of the relevant sections of the Act and our position in this matter.

In this case, the landlord may have had the right, under the tenancy agreement, to show the premises to prospective tenants at reasonable hours, as provided in Section 95(1) of the Act. It does not appear that the landlord had the right to enter the premises for the purposes of cleaning and painting prior to August 31, 1983, without the expressed consent of the tenant. This consent was not given; the tenant had retained the keys to the premises; and the social worker had clearly indicated the tenant's intention to return for the purposes of cleaning.

In correspondence to our office, the Department stated a number of reasons on which support for the Rentalman's position was based. I shall deal briefly with each of these reasons.

We were informed that:

> *"While the fact that (the tenant) did not return his key, left food in his fridge, and left a small number of other items in the unit (for which he has been compensated by the landlord in the amount of $50.00) might be an indication that (the tenant) would return, it is in no way a defacto indication that (the tenant) would do so, as tenants frequently do not return keys and leave food and other items in their units upon vacating."*

It was our view that the fact that tenants frequently do not return keys and leave food and other items in their unit upon vacating could not be utilized as a reason for assuming that this tenant would follow that pattern.

We were also advised that:

> *"The landlord claims to have contacted the social worker on a number of occasions with regard to a concern about the cleanliness of the suite — primarily as a result of foul odours emanating from the suite. Therefore, the landlord could logically have assumed that the tenant was not now going to change his ways and clean the suite. At the same time the landlord could question the commitment of the social worker as the earlier calls to the social worker did not result in positive action from the landlord's point of view."*

In my opinion, an assumption cannot be made that the tenant would have failed to return or to clean the apartment, based on the landlord's claims that he had contacted the social worker on a number of occasions with regard to a concern about the cleanliness of the suite. In fact, we were informed that the social worker, following receipt of complaints, did take action to have the tenant receive instruction on housekeeping. We were advised that it was for this reason that the social worker felt it important that the tenant fulfill his obligation to leave the premises in a clean condition. In any event, the social worker's commitment or actions were not at issue. Rather, the issue was whether or not the tenant was entitled to expect that the premises would remain at his disposal and that he would have the opportunity to clean and remove the balance of his items, up to and including the expiration of the time period to which his rent was paid in full.

It was noted by the Department that the tenant had left a mattress in the hallway which had to be removed and thrown out, both because of its deteriorated condition and the fact that the mattress was obscuring the hallway. The Department felt that it would be "safe to assume that the landlord could have taken this as a sign that the tenant had no intention of returning the next day to clean the suite, even if the landlord accepted that he had been advised that this would occur".

We felt that it could equally be the case that the tenant was not sure what to do with this dilapidated mattress, or it could be assumed that the tenant had simply left the mattress in the hallway with the intention of moving it at some point the next day. In addition, it could have been taken as substantiation that it was the tenant's intention to clean the apartment as, had such not been the case, he could simply have left the mattress in the apartment with the balance of his belongings. In any case, basing any decision on assumptions, rather than on factual evidence, would appear to be inappropriate.

With respect to the statement made by both the tenant and his social worker that they advised the caretaker that he would return to clean his suite. We were advised:

> *". . . both the caretaker and the (landlord) adamantly deny that they were made aware of this arrangement. Therefore, I do not believe that it is possible to make an assessment of the strength of either party's case based on this alleged agreement, as they each have a vested interest in the outcome of this investigation."*

We felt that we must clarify this information relating to alleged contact with the caretaker regarding any arrangements which were made by the tenant or by the social worker on the tenant's behalf. As previously noted, the Rentalsman's Officer did not sufficiently clarify this issue with the caretaker. Rather, the matter was discussed with a representative of the landlord, namely, the manager of the premises. We do understand that contact was made with the caretaker to advise of receipt of the social worker's statement; however, it is our understanding that the caretaker did not give the Rentalsman's Officer an opportunity to discuss the matter but simply hung up the telephone.

We disagreed with the observation that it was not possible to make an assessment of the strength of either party's case based on the alleged agreement, due to a perceived vested interest in the outcome of the investigation. While the tenant, the landlord and, perhaps, the caretaker may have had a vested interest, certainly the social worker was an independent party whose only interest may have been in seeing that justice was given to his client.

In light of: the statement provided by the tenant to the effect that arrangements had been made for him to return to the premises for the purposes of cleaning, supported by the letter provided to the Rentalsman by the social worker; the confirmation by the caretaker that the tenant did, in fact, leave food in the refrigerator as alleged; the fact that the tenant did not return the keys at the time of removing the bulk of his belongings from the premises; the landlord's breach of The Landlord and Tenant Act, as acknowledged by the landlord's settlement to the tenant regarding personal items discarded by the landlord's staff — in light of all these facts, it was our opinion that a decision should have been reached in favour of the tenant and we recommended corrective action.

We were advised by the Minister that, while not in total agreement with our position, our recommendation would be accepted. The tenant received a payment of $48.00 from the Department representing the balance of his security deposit.

84-300-1 **Manitoba Housing**

Delay in decision on arbitration

We received a complaint from a landlord regarding what appeared to him to be a lengthy delay in receiving the notification required under Section 87(5) of The Landlord and Tenant Act, indicating the Rentalsman's inability to mediate or arbitrate a dispute between the landlord and a former tenant. This notification is required to permit the landlord to take his claim to court.

Upon review of the file material of the Rentalsman, it appeared that the security deposit had been received from the landlord on September 23, 1983. At that time, the landlord had provided to the Rentalsman, a statement relating to his claim for damages, and in addition the landlord had executed a form refusing the arbitration services of the Rentalsman.

Pursuant to Section 87(1.3) of The Landlord and Tenant Act, a letter was directed to the tenant, notifying that the security deposit had been received. Also pursuant to this section, the tenant was advised of the requirement that the Rentalsman receive, in writing, any objection to the claim of the landlord within 30 days of the date of the notification to the tenant. In this particular instance, the tenant was advised that the 30 day period was to expire on November 14, 1983.

The tenant failed to file an objection to the landlord's claim on or before November 14, 1983. A further letter was subsequently directed to the tenant by the Rentalsman, requesting that she complete and return the consent or refusal of arbitration forms. Whereas the landlord had previously indicated his refusal to permit the Rentalsman to arbitrate, and whereas the authority of the Rentalsman to arbitrate requires the agreement of both the landlord and the tenant, the purpose of the second letter to the tenant was unclear.

The Landlord and Tenant Act provides several options to the Rentalsman in dealing with a landlord and tenant dispute. Section 87(2) of the Act imposes an obligation upon, and provides the authority to, the Rentalsman to endeavor to obtain an agreement between the landlord and tenant where an objection is filed by the tenant under Section 87(1.3) of the Act. In this case, as the tenant had failed to file an objection, this section would not apply.

Section 87(3) of the Act provides the authority to have the Rentalsman act as arbitrator, providing that both the landlord and tenant agree in writing. In this particular instance, the landlord had, from the outset, refused to have the Rentalsman act as arbitrator and therefore this section would not apply. It appears that in this particular case, the Rentalsman had two options available to him.

(1) He could have, if he so chose, dealt with the security deposit pursuant to Section 87(1.4) of the Act which provides, "where following a notification under subsection (1.3) a tenant fails, refuses or neglects to notify

> the rentalsman of any objection as required under that subsection, the rentalsman may make such disposition of the allegations of the landlord and the security deposit and interest thereon as he considers just and reasonable under the circumstances", or

(2) He could have issued the notification of inability to mediate or arbitrate as provided in Section 87(5), which would then place the onus on the landlord to proceed through the courts to obtain a decision with respect to the disposition of the security deposit.

It was our view that on November 15, 1983, the Rentalsman has been in a position to choose to operate under Section 87(1.4) of the Act or to issue a notice under Section 87(5) of the Act. He did not deal with the security deposit under Section 87(1.4) and the notification of inability to mediate or arbitrate under Section 87(5) was not provided to the landlord until January 27, 1984. The landlord felt that his delay was not warranted.

During our review of this matter, discussions were held with a Deputy Rentalsman in the Rentalsman's office. We were advised that where a landlord and a tenant at the outset refused arbitration, the Rentalsman would normally attempt to mediate. It was our view that while the Act clearly places an obligation on the Rentalsman to endeavor to obtain an agreement between the landlord and tenant, it was also clear that the statute provided a 30 day period during which the tenant could respond to the landlord's claim. However, if the tenant failed to do so, in our view there was no legislative authority granted to the Rentalsman to mediate.

In the course of our review, we had an opportunity to examine the form letters which were routinely forwarded to tenants and landlords where a landlord objected to the return of the security deposit. We had some concerns about the wording of these letters relating to the issues of mediation and arbitration.

We felt that it would be appropriate that the Rentalsman advise a landlord that mediation would be attempted, where the tenant provided in writing, within the statutory 30 day time period, an objection to the allegations of the landlord. We also felt it appropriate that the landlord be advised that should mediation fail, arbitration would proceed, but then only if the landlord and tenant agreed to have the Rentalsman arbitrate. We felt that it must be clear to the landlord that the option of refusing arbitration was open.

With respect to the initial letter to the tenant which advises of the Rentalsman's receipt of the security deposit, and sets out the time period for the tenant to reply to the allegations of the landlord, we were concerned that the inclusion at the outset of the consent or refusal to arbitration forms could confuse the tenant. While we recognized that the rationale behind this approach was expediency, we felt that a full explanation should be given to the tenant, relating to the mediation process, in a case where the objection is filed by the prescribed date. It was felt that it should be made clear that should mediation be unsuccessful, arbitration would proceed, subject of course to both the landlord and tenant agreeing to arbitration.

It was our view that mediation and arbitration was a two stage process, and that this was not sufficiently clarified in the initial letter and became further confused by the inclusion of the consent or refusal to arbitration forms.

We were also concerned that where both landlord and tenant had agreed to have the Rentalsman arbitrate by executing the necessary forms, that mediation might be ignored and that the matter might move directly to arbitration. We felt it to be more appropriate that consent or refusal forms not be offered to the landlord or to the tenant until such time as mediation had broken down. It was felt that a landlord or tenant might have some apprehension about consenting to arbitration due to the final and binding nature of the decision, and that once having executed a refusal, might not feel obliged to enter into mediation.

It was also felt that in the case of tenants who had some apprehension about arbitration and who might not understand the process, that this could, in fact, influence their decision relating to the filing of an objection to the landlord's claim, feeling that in filing the objection they were agreeing to arbitration.

Section 87(1.3) of The Landlord and Tenant Act states:

> *"Rentalsman to notify tenant of security deposit.*
> *87(1.3) Where the rentalsman receives the security deposit and interest thereon pursuant to subsection (1.2) he shall in writing notify the tenant accordingly together with a statement of the allegations of the landlord made to the rentalsman under that subsection and the tenant may, within 30 days of the date of the notification in writing notify the rentalsman of any objections that he has with respect to the allegations of the landlord."*

This section of the Act seems permissive in that the tenant has the option of choosing whether or not to file an objection to the landlord's claim. However, we note also that once the tenant has chosen to file an objection, he/she must file the objection **within the 30 day period. This appeared to us to be a logical interpretation of the statute, primarily due to the fact that Section 87(1.4) referred to a situation where the tenant "fails, refuses or neglects to notify the rentalsman of any objection as required under that subsection"** [the reference being to Subsection 87(1.3)]. The Rentalsman's position was that to be just and reasonable, he could entertain objections received following the 30 day period. It was our view that the landlord should not be prejudiced by further time extentions granted to the tenant by the acceptance of an objection following the expiration of the 30 day period.

While we agreed with the Rentalsman that Section 87(1.3) and Section 87(1.4) of the Act were designed to provide the Rentalsman with scope and discretion in the disposition of a dispute, and to encourage resolution by agreement without costly action, it was also our view that this must be balanced against the rights of a landlord who has complied with the Act by submitting the security deposit and his claim.

It was also of concern that if the Rentalsman had the option of granting to tenants unspecified time extensions to the statutory 30 day time period, then justice could become somewhat arbitrary and inconsistent. Some tenants could be granted extensions and others not without any rationale except an arbitrary administrative decision made under the guise of being "just and reasonable". It was felt that if the statutorily provided time period were adhered to in all cases, as we believe is the intention of the legislation, then all cases would be treated the same, avoiding the possibility of claims by tenants or landlords, of discriminatory treatment.

The Rentalsman was not in agreement with our position, and felt that he could not disregard a late response by a tenant that arrived prior to the Rentalsman disposing of the matter under Section 87(1.4) of the Act. However, it was agreed that their procedure would be amended to the effect that follow-up letters to the tenant would not be sent following the expiration of the 30 day period specified in Subsection 87(1.3). We were advised that if follow-up letters were to be sent, it would be done in such a way that the file would still proceed to disposition under Section 87(1.4) or Section 87(5) of the Act, upon the expiration of the prescribed 30 day period.

While the Rentalsman had not accepted our report in total, it was felt that the implementation of the change in procedure outlined by the Rentalsman would resolve, to a large measure, the kind of difficulties which had led to the complaint to our office. It was felt that we could consider the matter resolved, subject to further review, should complaints of a similar nature be presented to our office.

84-330-14 **Manitoba Hydro**

Difficulties in obtaining a building permit.

In July of 1984 my office received a complaint from a woman living in rural Manitoba. She advised our office that she was a widow and was now living in her summer home on a permanent basis.

In the spring of 1984 the complainant had begun some renovations on the back porch attached to her home. She reported that, as the repairs progressed, she realized there was more deterioration in the back porch than had been anticipated. As a result her son, who was doing the work for her, decided to tear down the old structure and make a larger addition. Our complainant was subsequently made aware that a building permit would be required, and in May 1984, she made an application for a permit to the rural municipality. It was reported that, at the time of the application and submission of a site plan, it was determined that the structure was located on Manitoba Hydro water storage lands. There was also an easement agreement in effect which required that prior written approval must be obtained from Manitoba Hydro before any additional buildings be constructed.

Our complainant reported that she had not been aware of this requirement as, prior to his death, her husband had managed the majority of their affairs. However, when it was brought to her attention, she wrote to Manitoba Hydro in early May 1984 requesting permission to build the extension to her existing house.

In June 1984 the complainant received, from the local Planning District, a letter which was considered by the District to be a stop work order. She was advised that she was required to obtain the necessary building permit, or alternatively, to remove the illegal construction within 10 days of receipt of the notice. She was further advised that failure to comply would result in legal action. In July 1984, she contacted our office expressing her concern that she had not yet received any response from Manitoba Hydro.

Inquiries were made on this matter with Manitoba Hydro. We were advised that staff of Manitoba Hydro had been out to inspect the property on May 31, 1984 and at that time the construction had all but been completed. We were further informed that a geotechnical evaluation would be required to ensure that the addition would not have any adverse effects on the existing river bank. Manitoba Hydro also advised our complainant of this and that it was expected that all the information would be made available by August 17, 1984.

Manitoba Hydro was not able to conduct the geotechnical evaluation until August 23, 1984. The conclusion of the evaluation was that the addition to the structure did not appear to create any adverse effect to the existing river bank conditions. However, no decision was made immediately by Manitoba Hydro as to whether or not permission would be granted for the construction of the addition.

In October 1984, the Development Officer for the local Planning District charged our complainant for failure to obtain a building permit contrary to the by-law of the rural municipality. It might also be noted that prior to this action being taken, correspondence on the situation had been exchanged between Manitoba Hydro and the local Planning District.

Our complainant contacted our office to advise us of the most recent developments. As a result, further inquiries were made with Manitoba Hydro and they were also advised of the most recent action being taken by the Planning District against our complainant.

Under date of November 12, 1984, our complainant was notified, in writing, by Manitoba Hydro that they were prepared to allow her addition to remain, provided the only obstacle to her obtaining a building permit or any other permit required from the municipality, was the lack of approval from Manitoba Hydro. She was further advised that a representative from the Law Department of Manitoba Hydro would be contacting her in due course in order to formalize the situation involving her addition. The local Planning District was also notified by Manitoba Hydro of their position.

Following the written authorization from Manitoba Hydro allowing the building addition, the Planning District also permitted the addition to remain in its present location. A building permit was granted and the prosecution against our complainant did not proceed.

In February 1985, our complainant received a further letter from Manitoba Hydro advising her that Manitoba Hydro was prepared to lease her the portion of the water storage lands needed to accommodate the building addition. The terms of the lease would be in lieu of the present easement agreement. The lease was to be for a term of five years with an option to renew. The annual rent was considered to be a nominal amount, subject to change upon the renewal of the lease.

After receiving this correspondence from Manitoba Hydro, our complainant again contacted our office expressing her concern over this most recent development and stating that she did not feel she should have to sign a lease. She also advised our office that she had incurred legal expenses as a result of the action that had been commenced against her by the Planning District. As a result, my office had further discussion with Manitoba Hydro on this issue.

In our review of this matter with Manitoba Hydro, we acknowledged that our complainant had begun construction of the addition to her home without prior written approval of Manitoba Hydro, as required by her easement agreement, and without obtaining a building permit from the rural municipality. However, there was nothing to suggest that this violation was a deliberate act on our complainant's part. We noted that when she was made aware of the requirements, she did attempt to obtain both a building permit from the municipality and authorization from Manitoba Hydro for the construction. We could also understand the position of Manitoba Hydro, namely that they did not want to set a precedent by allowing unauthorized structures to be erected without permission, and that they wished to keep the water storage lands clear.

Considering the fact that the structure did not have an adverse effect on the existing river bank, and looking at all the circumstances of this case, particularly the fact that the structure was simply a larger extension of the existing back porch, I did feel it would have been unreasonable if Manitoba Hydro had made our complainant tear down the addition.

We also took into consideration the fact that, as the result of the prosecution being initiated against our complainant by the local Planning District, she was required to hire a lawyer which resulted in legal fees. As mentioned previously, after Manitoba Hydro gave permission for the structure to remain, the prosecution had been stayed. It also appeared to our office that Manitoba Hydro may had found themselves in the middle of a controversy between our complainant and the local Planning District, and that this may have contributed to their delay in making a decision with respect to the matter.

In consideration of all the factors and issues, including the complainant's own responsibility for the situation which had occurred, it was my opinion that she had been adversely affected as a result of the length of time taken by Manitoba Hydro to arrive at a final decision on the matter. I also had some question around the most recent decision to request our complainant to sign a lease and pay an annual rent when there was an existing easement agreement which apparently granted her free use of the land.

As a result of our review, it was my opinion that our complainant had a justified grievance against Manitoba Hydro. I recommended that:

1) Our complainant be reimbursed one-half of the legal expenses incurred as a result of the prosecution initiated against her by the local Planning District, and
2) Our complainant not be required to sign any lease agreement unless she chose to and felt it was in her best interest.

Manitoba Hydro responded to the recommendations and advised us that they agreed with our recommendation that our complainant should not be required to sign a lease agreement, or any agreement, unless she chose to and felt it was in her best interest. However, it was their view that the easement agreement presently in place was an inappropriate document on which to base her use of the water storage property. Leasing the property to her was proposed to her as a solution.

Manitoba Hydro did not agree with the recommendation that they should pay one-half of our complainant's legal expenses. Manitoba Hydro felt that there were a number of factors which had prevented them from stating their position on the breach of easement earlier than it did. As well, they felt that the legal costs were incurred as a result of the Planning District's decision to institute legal proceedings against our complainant and that this decision was made without Manitoba Hydro's prior or subsequent concurrence. They also indicated that the Planning District had grievances of its own with the complainant which may have contributed to its decision. They also felt that fundamentally, the entire problem was really of our complainant's own making.

After receiving Manitoba Hydro's response to my recommendation, we had further discussions with Manitoba Hydro. Essentially, we maintained our position that, while acknowledging our complainant's responsibility in the matter, we still felt she had suffered as a result of the delay on the part of Manitoba Hydro in reaching a decision on the matter.

After further consideration, the President and Chief Executive Officer of Manitoba Hydro advised me that a payment would be made to our complainant on a "without prejudice" basis, for half of the legal costs she incurred in defending criminal proceedings initiated by the Planning District. It was stated that payment should not be interpreted as a negation of the concerns that Manitoba Hydro had expressed on this question. In recommending payment he (the President and Chief Executive Officer) was taking into account the desirability of effecting a final resolution on this matter and that our complainant may have experienced a great deal of frustration in the course of the events.

I was very pleased with the co-operation received from Manitoba Hydro in this regard. I also understood and appreciated Manitoba Hydro's position that this payment should not be interpreted as a negation of the concerns they had expressed on this question.

In light of the action taken, we closed our file as resolved.

85-340-4 **Manitoba Hydro**

Being charged for bill which he claims he does not owe.

A complaint was received from an individual who advised that in March 1983 he had temporarily moved in to live with a friend in a trailer park in rural Manitoba. Shortly after, the trailer had been relocated to another lot in the trailer park. When the power was reconnected to the new site in August 1983, the billing for Manitoba Hydro was placed in our complainant's name.

In September 1983, our complainant moved to his own living accommodation. However, he left the hydro account for the trailer in his name, reportedly with the understanding that his friend would be responsible for the bill.

In February of 1984 our complainant found out that Manitoba Hydro had been threatening to cut off the service to his friend's trailer as his bills were delinquent. It was reported that his friend advised Manitoba Hydro that our complainant had "just moved out" of the trailer and that the unpaid bills were really our complainant's responsibility. Our complainant's friend then had the account put in his own name.

Our complainant subsequently made arrangements with Manitoba Hydro for the bill to be paid off at $25.00 a month, and his friend reportedly agreed to assume payment of this amount. However, as his friend did not have any money, our complainant reported that he agreed to make the first few payments from May to September 1984. In September of 1984 our complainant moved to Winnipeg.

At the time he contacted our office in March 1985, our complainant's friend had apparently not made any further payments on the outstanding hydro account. Manitoba Hydro had turned over the collection of the account to a credit bureau who were in contact with our complainant. Our complainant was requesting assistance from our office to have this matter straightened out and have the appropriate party charged for the billing. He also provided our office with a statement from a landlord confirming that he had been living in a different residence as of September 1983.

Manitoba Hydro was requested to review this matter in light of the information provided by our complainant.

It was confirmed that our complainant did ask for the service to be in his name as of August 25, 1983. The owner, our complainant's friend, had asked for it to be changed to his name as of January 26, 1984. We were also advised that the outstanding balance covered the period from August 25, 1983 to January 26, 1984.

It was also reported that five payments of $25.00 each had been deducted from the final bill which had been issued. This appeared to correspond with the information we had received from our complainant that he had made the initial $25.00 payments on the bill in an effort to help his friend and that his friend had made no further payments after that.

We were also informed that The Manitoba Hydro Act provides for the "user" to be responsible for the bills issued. However, if there is some doubt as to who the "user" is, Manitoba Hydro would often rely on the owner to provide the information.

Manitoba Hydro acknowledged that the information provided by our complainant and his landlord did indicate that the user was not our complainant. Therefore, the outstanding bills were going to be redirected to the owner. It was also reported that Manitoba Hydro would reserve the right to look to our complainant for payment if subsequent information did show that he was the user. However, Manitoba Hydro directed that the credit bureau hold off any further action until further notice from Manitoba Hydro. This case was therefore concluded as resolved.

85-340-15 **Manitoba Hydro**

Feels Manitoba Hydro is responsible for damage to lawnmower resulting from alleged improperly protected equipment.

My office received a complaint from a Winnipeg resident who advised that while mowing around the base of a Manitoba Hydro power pole, her lawnmower hit a protruding bolt causing damage to the lawnmower for which Manitoba Hydro would not accept responsibility. Our complainant had contacted Manitoba Hydro, the City of Winnipeg, and the federal Consumer and Corporate Affairs office, which advised her to contact the Ombudsman.

Manitoba Hydro was advised by my office of our complainant's concerns and a review of the matter was requested. Subsequent to receiving our letter, Manitoba

Hydro contacted our complainant and again discussed her claim. The response which my office received from Manitoba Hydro was that while they did not accept responsibility for the claim, they had negotiated a gratuitous settlement without prejudice of $50.00.

Our complainant advised that she was pleased with the settlement, and expressed the opinion that if it had not been for the involvement by my office, the settlement would not have been made.

The promptness with which Manitoba Hydro resolved this matter to the satisfaction of our complainant was appreciated. I should add that this is not the first incident where Manitoba Hydro, when approached by our office, has displayed a willingness to resolve matters on a co-operative basis.

85-330-2 Manitoba Labour

Seeking help to obtain money from Employment Standards Branch.

A past employee of an orthopedic company wrote a letter to us on March 18, 1985 requesting our assistance in obtaining payment of wages and vacation pay due to him as a result of his employment. He was concerned over the length of time the Department was taking in recovering the wages owing to him.

We made inquiries with the Employment Standards Branch, Department of Labour. We were advised by the Department of Labour that, as they could not locate the employee's former employer, they were unable to serve the company with an order under The Payment of Wages Act. The Department had continued to attempt to find the whereabouts of the employer, but was unsuccessful.

We were advised that on November 30, 1984 the Department had received notice that the employer had made an Assignment in Bankruptcy. However, the address given at the time was the same address that the employer had apparently vacated in July 1984. The Employment Standards Branch advised us that an order was prepared under The Payment of Wages Act to the employer and addressed to this address. The Branch was advised, by the occupant of that address, that the employer no longer lived there, however, they were given her new address.

After having been successful in contacting the employer, the Branch was able to effect service of the order and, consequently, authorized payment out of the Payment of Wages Fund to the employee.

The Payment of Wages Act allows a payment of unpaid wages to employees where all reasonable and necessary efforts have been made to collect the unpaid wages and all appropriate procedures under the Act for the collection of unpaid wages have been utilized.

The amount which can be paid from the Payment of Wages Fund to an employee shall not exceed the sum of $1,200.00 for one calendar year. Following payment from the fund, the Branch then has the rights of the employee to take action to recover the amount of unpaid wages paid to the employee.

Although the employee's original claim had been filed on May 18, 1984, the payment was not authorized until July 1985 (i.e. some fourteen months later), the fact is that the Employment Standards Branch as indicated above was prevented from paying the employee out of the Payment of Wages Fund due to the fact that the employer could not be located and hence could not be served with an order. We did not feel that the length of time it took to resolve this matter was unreasonable in view of the order requirement under the Act and in consideration of the apparent difficulty in tracing the employer's whereabouts. With the paying of the employee, we considered the matter to be resolved.

84-390-14 Manitoba Natural Resources

Requests compensation for damage caused by forest fire.

I received a letter of complaint from the operator of a logging camp situated in the Nopiming Provincial Park area. Our complainant indicated that on September 4, 1983 when his logging camp was threatened by a forest fire, he requested permission from the local fire co-ordinator to enter his camp area in order to protect the camp and its equipment. This request was denied and as a consequence our complainant was of the view that he was entitled to a reimbursement of $16,200.00 for the destruction to his camp and equipment.

Upon contacting the Department of Natural Resources for information relating to our complainant's concerns, we were advised that our complainant was denied permission to travel to his camp at approximately 10:00 a.m. on September 4, 1983. It was confirmed that the individual who had denied the request for entry was a government employee known as the "fire boss", who is responsible for everything regarding the suppression and control of a fire.

The information obtained indicated that the fire in question had started on or about September 2, 1983 due to a lightening strike in the immediate area of our complainant's lumber camp. At the time, the temperatures throughout the region exceeded 30 degrees celsius and strong southeasterly winds fanned the fire with the result that by September 3, 1983 the fire had become a major problem for the individuals responsible for its suppression and control. Additionally, due to the intense smoke conditions, the size and approximate path of the fire could not be determined, and with the extent that the fire might pose a threat to lives and property being unclear, the decision was made to evacuate and close the park.

Upon discussing this complaint with departmental employees, we were advised that on September 3, 1983 an employee had flown over the area where the logging camp was located observing that everything was a red glow from the air. It was noted that they had trouble getting into the area by aircraft due to the heavy smoke. The camp in question was thought to have been destroyed at approximately 4:00 p.m. on September 3, 1983. Accordingly, at the time when our complainant requested to travel to the location of his logging camp, it may have already been destroyed. In addition, our information was that Provincial Road #314 which he would have had to travel, had been crossed by the fire at several points. Departmental staff did not believe that our complainant would have been able to travel to his logging camp even if permission had been granted.

The actual decision on whether or not an individual is allowed to enter the fire area is a judgment call which has to be made at the time of the request. We were advised that in considering requests, the Department has established priorities which are considered at the time when a request is made. The first priority is to protect personal life; secondly, to protect personal property; and thirdly, to protect forest resources. The position taken was that to have allowed our complainant into the fire area would have posed a potential risk to his life; also, the fire crews which were involved not only in attempting to contain the fire, but also in evacuating a large number of people from the fire area, would have had to redirect some fire fighters to ensure the safety of our complainant.

Upon considering all aspects involved in this particular complaint, it was determined that the Department's decision not to allow our complainant entry to his logging camp was not inappropriate and our complainant was advised accordingly.

85-400-29 **Private Matters**

Tenant vacated premises without giving proper notice to landlord.

We received a letter from a landlady who stated that she had been providing board and room to a juvenile girl under the care of the children's aid society since November 1984. The board and room had been paid directly to her by the children's aid society.

However, when the tenant turned 18 years of age she no longer came under the jurisdiction of the children's aid society and her case was transferred to the Department of Community Services. She was being followed in the community by a social worker from that Department and was also receiving financial assistance from Student Social Allowances, Department of Employment Services and Economic Security.

Our complainant reported that she had requested that Student Social Allowances pay the board and room directly. However, she advised our office that the Student Social Allowance worker had told her that their usual procedure was to send the cheque directly to the student and therefore they would not be sending her the board and room monies directly. Our complainant stated that she raised some concerns about this with the Student Social Allowance worker as she did not feel that her tenant was responsible enough to pay the board and room directly. She advised our office that she had requested that the Student Social Allowance worker contact the children's aid society worker. Apparently this was done.

She further informed my office that when the first Student Social Allowance cheque arrived at the end of February 1985, it was in the tenant's name. She stated her tenant took the cheque, left her premises, did not pay her rent nor did she return for several days. This was then reported to the Community Services social worker.

Our complainant wrote to us at the end of March 1985 stating that the tenant had not returned and she had not been given any notice as to whether she would be moving out, but it was her understanding that she would not be returning to live with her. She felt that she was entitled to at least the rent portion of the board and room allowance. She got in touch with our office because she did not feel that any of the departments she had contacted wanted to accept responsibility for this matter.

When I reviewed the nature of the complaint, it appeared that it was essentially a private matter between a landlord and a tenant. Nevertheless, my investigator made inquiries with the worker from the children's aid society, Student Social Allowances, and the Department of Community Services. Further information was also received from our complainant. As a result of these inquiries, the following information was obtained:

a) The tenant was considered to be functioning in the borderline range of intelligence and at an emotional level younger than 18 years.

b) The children's aid worker advised our office that her recollection was, although it had not been put in writing, that she would have discussed with the Student Social Allowance worker that the landlady should be paid directly.

c) There was information in the referral letter from the children's aid worker to the Student Social Allowance Program regarding the client's extreme immaturity.

d) From further discussion with our complainant it appeared that, after the Student Social Allowance worker had reportedly confirmed with the children's aid society worker her concerns about the client, it had been our complainant's impression that she would be receiving the rent payment directly.

e) It was our understanding that when the tenant was located in early March 1985 that she was immediately placed in another setting and the landlady was not given any prior notice of a move.

In consideration of the circumstances of this case, it did appear that our complainant may well have a justifiable concern with respect to how the entire matter had been handled. It also appeared that there would have been grounds to support the landlady's request that she receive the rent payment directly. In addition, it did not seem fair that she would not have received any notice, or rent in lieu of notice, when the tenant was no longer going to be boarding with her.

As a result of our observations, a letter was sent to the Department of Employment Services and Economic Security, Social Allowance Program, requesting that they review this matter giving consideration to whether the landlady might be entitled to some financial reimbursement. We subsequently received a report from the Department of Employment Services and Economic Security in response to our inquiry.

In the report from the Department it was reported that they could not find any indication that a request for direct payment had been submitted to the Department by either the landlady or the children's aid worker. It was acknowledged that in the correspondence the children's aid worker did refer to difficulties experienced with the client in the past resulting from her extreme immaturity, but no reference was made to her inability to manage or take responsibility for her finances. It was reported that it was only in recent information obtained by the Department and from the correspondence from our office, that staff learned of the client's "borderline intelligence", her lack of budgeting skills, and difficulty in managing money. It was commented that had the Student Social Allowances worker been made aware of this at the end of February 1985, the worker would not have adhered to the policy but would have complied with a request to have the rent payment made directly to the landlady.

It was reported that generally, direct payments are implemented on the recommendation of the referring agency or the request of the recipient, or on the basis of the recipient having demonstrated failure to apply board and room (or rent) funds as intended. Under such circumstances, staff do have the authority to deviate from the policy paying all assistance directly to the recipient.

It was reported that, in this instance, it appeared that the referring agency was not sufficiently explicit in their recommendation. However, it was also acknowledged that it was conceivable that their staff may not have responded to indications that the client might not be able to manage her funds. While no blame was attributed to either the children's aid society or Student Social Allowances, it was felt that there was sufficient doubt cast on the circumstances that some intervention might be in order on the part of the Departament of Economic Security. As a result, the Department did agree to duplicate the rent portion of the client's March 1985 assistance and to pay that portion to the landlady.

It was our opinion that the Social Allowance Program had reached a fair decision in an effort to resolve this matter and our complainant was notified accordingly.

84-460-30 The Workers Compensation Board of Manitoba

Objections to termination of compensation benefits.

I received a letter of complaint from an Alberta resident who complained that the Manitoba Workers Compensation Board was in error by recovering money as an overpayment. Our complainant indicated that the payment which he was receiving from the Manitoba Workers Compensation Board for a leg injury, was not related to the payment which the Alberta Workers Compensation Board was making for a finger injury.

Upon investigating the circumstances which resulted in an overpayment situation being identified, we noted that the Alberta Workers Compensation Board had paid temporary total disability payments to our complainant for the period May 9, 1984 to August 3, 1984 as benefits for a right finger injury which had been sustained on May 8, 1984 in Alberta. The overpayment situation started on May 16, 1984 when the Manitoba Workers Compensation Board started paying temporary total disability payments for a left knee injury which had been sustained on June 11, 1984 in Manitoba. The determination made by the Manitoba Workers Compensation Board was that an overpayment situation existed for the period May 16, 1984 to August 3, 1984. The total amount of overpayment was calculated as being $2,766.19. This amount was recovered by the Manitoba Workers Compensation Board through withholding a portion of the benefits due to our complainant for the period September 5, 1984 to November 22, 1984.

On the basis of the information reviewed, our office felt that the Workers Compensation Board's position that an injured worker cannot receive two temporary total disability payments simultaneously was reasonable and therefore we could not conclude that the Board's action to recover the overpayment was clearly wrong or unreasonable.

85-430-7 The Workers Compensation Board of Manitoba

Denial of Medical Review Panel.

Our complainant in this matter advised our office that on November 10, 1965 he had sustained an injury to his left foot when a 130 lb. conveyer fell on it while he was working at his place of employment. Our complainant also reported that approximately seven years previous to the date of his work-related injury, he had begun to develop some mild foot problems. He advised that his foot condition had not interfered with his ability to perform his duties at work. However, following the accident, he began to experience considerable difficulty in this regard. It was our understanding that the Workers Compensation Board had awarded total temporary disability benefits for this accident until January 1966, following which our complainant had returned to work.

At the time of his injury, our complainant's job had entailed some heavy physical labour. He reported that, after the accident, he had attempted to continue in his position; however, he found that the pain and discomfort in his foot limited his ability to perform in this capacity. He subsequently had to change his occupation within the company to a less physically demanding position.

In 1982 our complainant re-opened his claim with the Workers Compensation Board of Manitoba due to ongoing problems he reportedly was experiencing. Representation was made to the Board that consideration be given to the matter of special shoes that he required because of his foot condition. In May 1982 he was advised that the Claims Committee was unable to assume responsibility for his present foot problems for which he required special shoes, as it did not consider this condition to be a result of the 1965 injury. Our complainant enlisted the help of the Worker Advisor Office and a request for a further review of his claim was submitted to the Board.

The case was considered by the Review Committee, and in March 1983 they advised our complainant that his claim was being denied as his condition was not attributable to his compensable accident. It was reported by the Review Committee that payment of a permanent disability award could not be made as there was no residual impairment due to the effects of the fractured toes that occurred on November 10, 1965. The Committee also reported that the medical evidence did not substantiate a causal relationship between the man's current foot problems and the 1965 accident, and therefore, there was no basis for accepting responsibility for any costs associated with the current problem.

With the assistance of the Worker Advisor Office, our complainant appealed the decision to the Board of Commissioners. At a hearing held on May 17, 1983, the Board of Commissioners determined that no responsiblity could be accepted for the claimant's present left foot condition, a permanent disability award could not be made, and no responsibility could be assumed for payment of special footwear.

In November 1983, our complainant received a medical opinion from another specialist. Included in this specialist's report was a recommendation that a Medical Review Panel be held with respect to whether or not the section of The Workers Compensation Act dealing with a relationship between a pre-existing or underlying condition and an accident might apply in this case, and that their recommendation be used to finalize the problem.

The Board considered the claim further on December 22, 1983 and a motion was made that there was no basis for convening of a second hearing or a Medical Review Panel.

In subsequent deliberations on the matter in May 1984, the Board upheld their previous position and considered that the reference to a Medical Review Panel in the specialist's letter of November 1983, was in relationship to an adjudication matter. The Board was of the opinion that it was not the function of Medical Review Panels to adjudicate the application of statutes of The Workers Compensation Act. Rather, it was the Board's exclusive jurisdiction to make this determination and that this was done by the motion which had been made on December 22, 1983. The Board was of the opinion that no action was warranted based upon the information at hand.

When the claimant approached our office for assistance, he felt he was being denied due process and that he should be entitled to an independent Medical Review Panel. Our office thoroughly reviewed all of the information provided to us by the worker, including medical reports, as well as the decisions made by the Workers Compensation Board of Manitoba. It was noted that Section 54.1(4) of The Workers Compensation Act reads:

> *"Where in any claim or application by a workman for compensation the opinion of the medical officer of the board in respect of a medical matter differs from the opinion in respect of that of the physician selected by the workman, expressed in a certificate of the physician in writing, if the workman requests the board, in writing, to refer the matter to a panel, the board* ***shall*** *refer the matter to a panel for its opinion in respect of the matter." (Emphasis added)*

In reviewing the medical report which had been submitted by the specialist on behalf of the claimant, it appeared that he may have felt that there was some question as to the relationship between the accident and the worker's underlying or pre-existing condition.

It was also noted that the Medical Officer for the Workers Compensation Board had reported that he would find it very difficult to relate the present state of the worker's left foot to the accident of 1965. It was his view that the aggravation did not progress to an enhancement nor acceleration of the underlying condition. In the opinion of the doctor for the Workers Compensation Board, there was no new medical evidence to support a relationship.

In considering the comments of the two specialists, it certainly appeared to our office that there may have been a difference of medical opinion between the specialists. Therefore, the question was put to the Board as to why the worker was denied access to a Medical Review Panel.

The Board responded to our inquiry and stated that they were of the opinion that the specialist had concluded he could not relate the claimant's present condition to the accident and had recommended the establishment of a Medical Review Panel to "finalize this problem", and that this was not sufficient to require the establishment of a Medical Review Panel. We were advised that if the specialist had first come to the conclusion that the claimant's condition was related to the compensable injury and the Workers Compensation Board Medical Officer had come to an opposite conclusion, then the Board considered that it would be required to refer the matter to a Panel.

The Board confirmed its previous view that the specialist's comments were relative to an adjudication matter and it was not the function of Medical Review Panels to adjudicate the application of statutes of The Workers Compensation Act. Therefore, the Board reaffirmed that there was no basis to convene a Medical Review Panel, as it was not considered that there was a difference of medical opinion.

Nevertheless, it remained our opinion that the specialist's remarks, on behalf of the worker, did indeed constitute a difference of an opinion from that of the Board's Medical Officer. However, before proceeding, clarification was required from the specialist regarding his comments.

In subsequent correspondence, the specialist clearly stated that it was his medical opinion that the crush injury, with attendant fractures, severely aggravated the pre-existing condition beyond the degree which could occur naturally.

In light of the information available, I recommended to the Board of Commissioners that our complainant's case be referred to a Medical Review Panel.

The Board of Commissioners considered my recommendation and reported that they were satisfied that the comments expressed by the specialist in his most recent letter were, in fact, a difference of opinion relative to the opinion expressed on file by the Workers Compensation Board Medical Officer and, therefore, a Medical Review Panel should be convened.

This decision did resolve the complaint to our office that the worker had been unfairly denied a Medical Review Panel. However, I might comment that it really should not have taken the intervention of our office in order to obtain clarification on the original report which had been submitted by the specialist on behalf of our complainant. It would be reasonable to expect that if the specialist's comments were open to interpretation, that clarification on the issue should have been obtained at the time his report was submitted.

Complete List of Complaints

Agriculture — 2		
85-100-1	Feels unjustly dealt with by the Manitoba Milk Producers' Marketing Board.	Not Supported
85-100-2	Dispute re crop insurance contract.	Pending
Attorney General — 54		
85-110-1	Feels each of his many applications for Legal Aid not being judged on its own merit.	Not Supported
85-110-2	Alleges discrimination and political reasons behind refusal of Legal Aid Certificate.	Not Supported
85-110-3	Staff of Department allegedly refusing to answer his inquiries.	Information Supplied
85-110-4	Has been refused Legal Aid.	Information Supplied
85-110-5	Alleges delays in communication and action on part of the Public Trustee.	Not Supported
85-110-6	Lack of enforcement of maintenance payments.	Assistance Rendered
85-110-7	Unhappy with handling of estate by Office of the Public Trustee.	Resolved
85-110-8	D.C.I. Inmate — Alleges unfairness on part of Crown Attorney.	Not Supported
85-110-9	Questions re denial of Legal Aid.	Information Supplied
85-110-10	Feels Government is wrong in not accepting complaints against police relating to actions which occurred prior to proclamation date of Law Enforcement Review Act.	Information Supplied
85-110-11	Revocation of Legal Aid Certificate.	Assistance Rendered
85-110-12	Alleges unfair treatment by the Office of the Public Trustee.	Discontinued (Client)
85-110-13	Feels he should qualify for financial assistance from Legal Aid Manitoba.	Information Supplied
85-110-14	Alleges refusal of Crown Prosecutor's Office to examine charges.	Declined
85-110-15	Alleges illegal seizure by Sheriff.	Not Supported
85-110-16	Dissatisfied with Human Rights Commission's handling of his case.	Pending
85-110-17	Feels she has been improperly denied Legal Aid Certificate.	Not Supported
85-110-18	Denial of Legal Aid.	Information Supplied
85-110-19	Alleged loss of personal belongings by Office of the Public Trustee.	Assistance Rendered
85-110-20	Seeking clarification re staying of criminal charge.	Information Supplied
85-110-21	Requests copy of legal opinion.	Not Supported

85-110-22	Alleges Crown Attorney mishandled appeal of a child abuse case.	Not Supported
85-110-23	Alleged improper administration of trust account.	Not Supported
85-110-24	Denied assistance in locating monument.	Pending
85-110-25	Feels he was improperly denied Legal Aid.	Not Supported
85-110-26	Complaint against Registrar under Private Investigations and Security Guards Act.	Pending
85-110-27	Legal Aid denied.	Not Supported
85-110-28	Alleges Legal Aid denied assistance without providing explanation.	Information Supplied
85-110-29	Error in Committal Warrant.	Resolved
85-110-30	Alleges unfair refusal of Legal Aid.	Not Supported
85-110-31	Does not want Public Trustee to have committeeship over mother's affairs.	Information Supplied
85-110-32	Questions concerning settling of mother's estate.	Resolved
85-110-33	Concerned over son's inability to obtain Legal Aid.	Information Supplied
85-110-34	Alleges inappropriate use of Legal Aid system involving possible conflict of interest.	Pending
85-110-35	Questions re Province's responsibility under The Intoxicated Persons Detention Act.	Assistance Rendered
85-110-36	Alleges Crown Prosecutor misled Court; complainant also raised questions re backdating of Court documents.	Pending
85-110-37	Denial of Legal Aid assistance.	Pending
85-110-38	Questions concerning forfeiture of bail.	Information Supplied
85-110-39	Refusal of Legal Aid Certificate.	Not Supported
85-110-40	Seeking Legal Aid to appeal Small Claims Court decision.	Information Supplied
85-110-41	Feels she should be granted Legal Aid Certificate.	Discontinued (Client)
85-110-42	Feels Law Enforcement Review Agency should act on his complaint.	Pending
85-110-43	Denied Legal Aid.	Declined
85-110-44	Alleges error made re maintenance payments.	Pending
85-110-45	Legal Aid Certificate denied.	Information Supplied
85-110-46	Unable to obtain Court transcript.	Pending
85-110-47	Concerned that Legal Aid may have acted inappropriately in handling case.	Pending

85-110-48	Denied Legal Aid.	Pending
85-110-49	Feels Department should have investigated his allegations re conspiracy to obstruct justice.	Declined
85-110-50	Alleged lack of notice re disposition of ticket.	Pending
85-110-51	Monitoring Inquest.	Information Supplied
85-110-52	Questions why no action was taken to enforce payment.	Assistance Rendered
85-110-53	Concerned about possibility of plea bargaining in case before the Court.	Declined
85-110-54	New summons issued before expiration of original summons.	Resolved

Boards, Commissions and Committees — 38

85-120-1	Alleges unfair treatment by Manitoba Surface Rights Board.	Resolved
85-120-2	Concerned over length of time Manitoba Human Rights Commission is taking to investigate her complaint.	Information Supplied
85-120-3	Alleges unfair treatment by Manitoba Surface Rights Board.	Resolved
85-120-4	Alleges unreasonable decision by Manitoba Disaster Assistance Board.	Pending
85-120-5	Alleges Manitoba Surface Rights Board not performing as it should.	Resolved
85-120-6	Alleges improper handling of claim by Manitoba Disaster Assistance Board.	Pending
85-120-7	Alleges unfair treatment by Human Rights Commission and questions Attorney General's review of Commission's handling of complaint.	Not Supported
85-120-8	Alleges failure of Manitoba Horse Racing Commission to abide by regulations.	Pending
85-120-9	Unhappy with Manitoba Human Rights Commission's proposed settlement of complaint.	Information Supplied
85-120-10	Alleges registrant security dealer has circumvented The Securities Act and Manitoba Securities Commission has failed to take appropriate action.	Not Supported
85-120-11	Delay by Manitoba Disaster Assistance Board in making final decision on his claim.	Pending
85-120-12	Claims Public Utilities Board has unfairly billed his company for damage caused to gas service riser.	Not Supported
85-120-13	Alleges inappropriate actions by Communities Economic Development Fund official.	Pending

85-120-14	Claims Manitoba Egg Producers' Marketing Board attempting to force him out of business.	Not Supported
85-120-15	Alleges undue pressure in signing lease for surface rights by Manitoba Surface Rights Board.	Discontinued (Client)
85-120-16	Unable to get Manitoba Surface Rights Board to act on his surface rights problem.	Discontinued (Client)
85-120-17	Alleges Manitoba Disaster Assistance Board will not make advance payments.	Information Supplied
85-120-18	Feels egg levy refund is being unfairly withheld by Manitoba Egg Producers' Marketing Board.	Pending
85-120-19	Fearful that Taxicab Board may not grant permit, as certificate of good character has been revoked by police.	Discontinued (Client)
85-120-20	Dissatisfied with Manitoba Human Rights Commission's investigation of complaint.	Discontinued (Client)
85-120-21	Feels Civil Service Superannuation Board's decision not to allow him to buy back pensionable service is unfair.	Pending
85-120-22	Unhappy with decision of Manitoba Disaster Assistance Board.	Pending
85-120-23	Alleges unfairness in Motor Transport Board's system of granting public service vehicle licences for mini-buses.	Pending
85-120-24	Feels unfairly treated by Criminal Injuries Compensation Board.	Pending
85-120-25	Feels decision of Licence Suspension Appeal Board is unfair.	Pending
85-120-26	Alleges improper action by Manitoba Securities Commission.	Not Supported
85-120-27	Feels unfair assessment made of property by Municipal Board.	Pending
85-120-28	Feels unfair assessment made of property by Municipal Board.	Pending
85-120-29	Improper procedures used by Manitoba Surface Rights Board in recruitment of secretary.	Pending
85-120-30	Alleges undue delay by Manitoba Labour Board.	Not Supported
85-120-31	Alleges Veterinary Medical Board did not deal properly with his complaint.	Pending
85-120-32	Teacher unable to obtain refund of pension contributions from Teachers' Retirement Allowances Fund Board.	Pending

85-120-33	Alleges Manitoba Human Rights Commission did not handle his complaint properly.	Pending
85-120-34	Feels orders of Manitoba Labour Board are unfair.	Pending
85-120-35	Alleges complaint dismissed based on incomplete investigation by Manitoba Human Rights Commission.	Pending
85-120-36	Alleges unjustifiable delays in the handling of his case by Criminal Injuries Compensation Board.	Not Supported
85-120-37	Dispute with Manitoba Telephone System over location of telephone pedestal.	Pending
85-120-38	Alleges difficulties obtaining Criminal Injuries Compensation Board settlement.	Information Supplied

Business Development and Tourism — 0

(130)

Civil Service Commission — 5

85-140-1	Employer/employee problem.	Information Supplied
85-140-2	Unhappy with responses of personnel managers re job application.	Pending
85-140-3	Alleges unfair hearing re employment termination as well as unfair termination of employment.	Declined
85-140-4	Seeking information re job reference check; feels Commission may have done an investigation on him.	Not Supported
85-140-5	Dissatisfied with action taken by Commission following the investigation of a personnel matter.	Pending

Community Services — 161

85-150-1	Unable to obtain information on current status of husband who is incarcerated in the Headingley Correctional Institution.	Assistance Rendered
85-150-2	Allegations of unfair treatment of inmate.	Pending
85-150-3	Out-of-province request re information on child adoption policy.	Assistance Rendered
85-150-4	Requests that the name of a reprimanded employee be made public.	Not Supported
85-150-5	Allegedly unhappy with Department's review of Children's Aid Society's involvement in suspected child abuse case.	Discontinued (Ombudsman)
85-150-6	Headingley Correctional Institution inmate alleges unfair treatment.	Not Supported

85-150-7	Headingley Correctional Institution inmate alleges medical treatment withheld.	Information Supplied
85-150-8	Headingley Correctional Institution inmate alleges unfair treatment re Institutional charges.	Not Supported
85-150-9	Headingley Correctional Institution inmate alleges correspondence addressed to Ombudsman opened by Institutional staff.	Resolved
85-150-10	Alleges improper treatment of residents at youth centre.	Not Supported
85-150-11	Headingley Correctional Institution inmate alleges penalty imposed by disciplinary board too severe.	Information Supplied
85-150-12	Headingley Correctional Institution inmate alleged refusal of medical assistance before suicide attempt.	Pending
85-150-13	Portage Correctional Centre for Women inmate alleges staff person giving her a hard time.	Pending
85-150-14	Claims that Office of Residential Care Licencing acted unprofessionally in the assessment of problems re residential care facility.	Pending
85-150-15	Headingley Correctional Institution inmate concerned about medical treatment provided for injured finger.	Assistance Rendered
85-150-16	Brandon Correctional Institution inmate complains nurse not giving serious attention to his medical problems.	Assistance Rendered
85-150-17	Alleged improper handling of Temporary Absence Passes at the Headingley Correctional Institution.	Pending
85-150-18	Headingley Correctional Institution inmate alleges improper handling of complaint.	Not Supported
85-150-19	The Pas Correctional Institution inmate alleges unfair treatment re request for Temporary Absence Pass.	Not Supported
85-150-20	Headingley Correctional Institution inmate alleges harassment by correctional officer.	Not Supported
85-150-21	Headingley Correctional Institution inmates allege guards giving inmates a hard time.	Assistance Rendered
85-150-22	Headingley Correctional Institution inmate — dispute over release date.	Information Supplied
85-150-23	Headingley Correctional Institution inmate alleges problems with receiving and sending mail.	Information Supplied

85-150-24	Headingley Correctional Institution inmate alleges he was not given immediate and appropriate medical treatment.	Not Supported
85-150-25	Brandon Correctional Institution inmate alleges he has been refused dental care similar to that granted to a fellow inmate.	Resolved
85-150-26	Complaint against service provided by Children's Aid Society of Winnipeg.	Discontinued (Client)
85-150-27	Headingley Correctional Institution inmate — disagreement with guards.	Not Supported
85-150-28	Objects to "no smoking" policy for employees.	Declined
85-150-29	Headingley Correctional Institution inmate alleges inappropriate treatment at the Institution.	Pending
85-150-30	Headingley Correctional Institution inmate alleges refusal of Temporary Absence Pass.	Information Supplied
85-150-31	Headingley Correctional Institution — security of Departmental files.	Resolved
85-150-32	Headingley Correctional Institution inmate placed in segregation allegedly for no reason.	Not Supported
85-150-33	Headingley Correctional Institution inmate alleges he has not been allowed phone calls to his lawyer and is being punished unfairly.	Not Supported
85-150-34	Headingley Correctional Institution inmate wrongfully placed in segregation.	Not Supported
85-150-35	Headingley Correctional Institution inmate alleged refusal of religious diet.	Resolved
85-150-36	Daughter refused entry to group home.	Assistance Rendered
85-150-37	Headingley Correctional Institution inmate on 24 hour lockup for no apparent reason.	Not Supported
85-150-38	Headingley Correctional Institution inmate allegedly unfairly punished.	Not Supported
85-150-39	Headingley Correctional Institution inmate seeking assistance re obtaining employment upon release.	Resolved
85-150-40	Alleged unfair treatment of residents at Manitoba Youth Centre.	Pending
85-150-41	Headingley Correctional Institution inmate allegedly put in segregation for no reason.	Not Supported
85-150-42	Brandon Correctional Institution inmate alleges room uncomfortably cool.	Resolved

85-150-43	Headingley Correctional Institution inmate alleges improper lockup; lack of medical attention.	Not Supported
85-150-44	Headingley Correctional Institution inmate alleges he was moved from Annex to main building without cause.	Not Supported
85-150-45	Winnipeg Remand Centre inmate alleges room uncomfortably cool.	Resolved
85-150-46	Portage Correctional Centre for Women inmate alleges religious discrimination.	Resolved
85-150-47	Headingley Correctional Institution inmate claims Institution officials did not notify him of grandmother's death.	Not Supported
85-150-48	Headingley Correctional Institution inmate's application for Temporary Absence Pass denied.	Information Supplied
85-150-49	Concerns re employment at correctional facility	Discontinued (Client)
85-150-50	Alleges lack of follow-up by worker.	Not Supported
85-150-51	Brandon Correctional Institution inmate alleges refusal of medication.	Resolved
85-150-52	Headingley Correctional Institution inmate alleges inappropriate attitude of guards toward inmates in protective custody.	Discontinued (Ombudsman)
85-150-53	Headingley Correctional Institution inmate allegedly experiencing difficulties sending money out of Institution.	Resolved
5-150-54	Headingley Correctional Institution inmates have concerns re living conditions in protective custody unit.	Information Supplied
85-150-55	Headingley Correctional Institution inmate — confusion over Temporary Absence Pass.	Information Supplied
85-150-56	Brandon Correctional Institution inmate feels it is unfair that he has been denied a pre-release Temporary Absence Pass.	Not Supported
85-150-57	Alleged that visit with fiance in correctional institution was unfairly denied.	Not Supported
85-150-58	Headingley Correctional Institution inmate feels it is unfair that he has been denied a pre-release Temporary Absence Pass.	Not Supported
85-150-59	Headingley Correctional Institution inmate allegedly threatened by correctional officer.	Not Supported
85-150-60	Feels worker divulged confidential information.	Pending

85-150-61	Feels she has been treated unfairly by her social worker.	Discontinued (Client)
85-150-62	Winnipeg Remand Centre inmate alleges unfair treatment while in custody at the Remand Centre.	Not Supported
85-150-63	Headingley Correctional Institution inmate objects to procedure followed when searching an inmate for contraband.	Pending
85-150-64	Request for information from out of Province.	Information Supplied
85-150-65	Headingley Correctional Institution inmate objects to being placed in segregation.	Not Supported
85-150-66	Winnipeg Remand Centre inmate alleges improper medical care.	Not Supported
85-150-67	Denial of Temporary Absence Pass.	Information Supplied
85-150-68	Winnipeg Remand Centre inmate alleges harassment by correctional officers.	Pending
85-150-69	Headingley Correctional Institution inmate requests transfer as he feels in danger at the Institution.	Resolved
85-150-70	Refused visiting rights re child in custody.	Pending
85-150-71	Headingley Correctional Institution inmate — lost personal property.	Resolved
85-150-72	Alleges harassment of son by correctional officers while in the Headingley Correctional Institution.	Not Supported
85-150-73	Headingley Correctional Institution inmate — several complaints against guards and concerns re conditions at Institution.	Not Supported
85-150-74	Headingley Correctional Institution inmate wants transfer from segregation.	Not Supported
85-150-75	Headingley Correctional Institution inmate wants to be transferred from segregation.	Not Supported
85-150-76	Headingley Correctional Institution inmate concerned over security procedures.	Information Supplied
85-150-77	Headingley Correctional Institution inmate — refusal of Temporary Absence Passes and "wrongful" suspicion of drug trafficking.	Not Supported
85-150-78	Alleges inappropriate action by Children's Aid Society.	Information Supplied
85-150-79	Portage Correctional Centre for Women inmate experiencing medical difficulties while in institution.	Not Supported
85-150-80	Unable to obtain a name change from Vital Statistics.	Information Supplied

85-150-81	Review of procedures followed in community work projects for inmates of Headingley Correctional Institution.	Pending
85-150-82	Brandon Correctional Institution inmate not allowed to withdraw money from his account for use while on day pass.	Resolved
85-150-83	Headingley Correctional Institution inmates allege reduction of privileges.	Information Supplied
85-150-84	Monitor Inquest.	Pending
85-150-85	Headingley Correctional Institution inmate alleges unfair treatment by guards.	Not Supported
85-150-86	Difficulties in obtaining funding for rehabilitation program.	Pending
85-150-87	Headingley Correctional Institution inmate alleges he is not being allowed to send out mail related to legal matter.	Pending
85-150-88	Winnipeg Remand Centre inmate alleges visits have been unfairly disallowed.	Not Supported
85-150-89	Headingley Correctional Institution inmate alleges unfair disqualification from Institution's cook programs.	Not Supported
85-150-90	Case of child abuse allegedly not being acted upon.	Pending
85-150-91	Headingley Correctional Institution inmate objects to move to segregation.	Resolved
85-150-92	Alleges unfair transfer from correctional facility.	Pending
85-150-93	Headingley Correctional Institution inmate objects to transfer from one correctional institution to another; seeking transfer back.	Information Supplied
85-150-94	Headingley Correctional Institution inmate alleges harassment by correctional officers.	Discontinued (Ombudsman)
85-150-95	Headingley Correctional Institution inmate's personal property allegedly missing.	Pending
85-150-96	Alleges improper holding of criminally insane person in correctional facility.	Pending
85-150-97	Headingley Correctional Institution inmate alleges problems with visits and mail.	Information Supplied
85-150-98	Alleged abuse of son while resident in a provincial institution.	Pending
85-150-99	Alleges inappropriate dismissal from position of relief child care worker.	Pending
85-150-100	Feels entitled to family allowance while children in care.	Pending

85-150-101	Headingley Correctional Institution inmate allegedly not receiving medical attention.	Pending
85-150-102	Headingley Correctional Institution inmate allegedly not obtaining proper medical treatment.	Not Supported
85-150-103	Alleges inaction by Children's Aid Society.	Pending
85-150-104	Headingley Correctional Institution inmate does not feel institution is properly treating dental problem.	Resolved
85-150-105	Headingley Correctional Institution inmate alleges unfair treatment.	Not Supported
85-150-106	Difficulties with private adoption.	Pending
85-150-107	Headingley Correctional Institution inmate alleges inappropriate medical treatment.	Not Supported
85-150-108	Children's Aid Society of Winnipeg — seeking information from agency files.	Pending
85-150-109	Feels husband being improperly held at correctional institution.	Resolved
85-150-110	Children's Aid Society of Central Manitoba — concerns relating to agency's handling of family matter.	Pending
85-150-111	Objecting to removal of foster child as complainants wish to adopt the child.	Pending
85-150-112	Feels Provincial Day Care Office should provide subsidized space for client.	Discontinued (Client)
85-150-113	Headingley Correctional Institution inmate alleges unfair treatment by guards and disciplinary board.	Not Supported
85-150-114	Headingley Correctional Institution inmate seeking transfer from medical ward of correctional facility to psychiatric ward of general hospital.	Not Supported
85-150-115	Headingley Correctional Institution inmate — Temporary Absence Pass and telephone call denied.	Resolved
85-150-116	Headingley Correctional Institution inmate wishes to be removed from segregated cell.	Not Supported
85-150-117	Unable to obtain release of information.	Resolved
85-150-118	Headingley Correctional Institution inmate alleges loss of personal property (medication).	Pending
85-150-119	Alleges Children's Aid Society have taken children without just cause.	Pending
85-150-120	Mother feels her son is not receiving proper medical care in institution.	Not Supported

85-150-121	Alleges child caring agency not properly handling their case.	Pending
85-150-122	Headingley Correctional Institution inmate alleges harassment by correctional officers.	Pending
85-150-123	Brandon Correctional Institution inmate alleges lack of proper medical attention.	Not Supported
85-150-124	Headingley Correctional Institution inmate objects to time being added to his sentence because of being unlawfully at large.	Not Supported
85-150-125	Headingley Correctional Institution inmate alleges inappropriate medical care.	Not Supported
85-150-126	Headingley Correctional Institution inmate has concerns relating to procedure followed in hearing grievances.	Information Supplied
85-150-127	Brandon Correctional Institution inmate alleges unfair treatment by staff and by other inmates.	Pending
85-150-128	Concerns over taste of drinking water at Egg Lake Rehabilitation Camp.	Information Supplied
85-150-129	Injury sustained at provincial institution.	Pending
85-150-130	Inmate objects to being segregated at The Pas Correctional Institution.	Not Supported
85-150-131	Headingley Correctional Institution inmate unhappy because convicted murderer in cell close to him; other varied complaints.	Discontinued (Ombudsman)
85-150-132	Brandon Correctional Institution inmate alleges unfairly terminated from Fine Option Program.	Pending
85-150-133	Unhappy with agency's handling of son's case.	Pending
85-150-134	Brandon Correctional Institution inmate alleges medical attention denied.	Not Supported
85-150-135	Headingley Correctional Institution inmate being held on Lieutenant Governor in Council warrant seeking release.	Information Supplied
85-150-136	Portage Correctional Centre for Women inmate feels she should be given work as cook in institution.	Information Supplied
85-150-137	Feels child's well-being is in jeopardy because of action by child caring agency.	Pending
85-150-138	Allegations of inappropriate action by agency.	Pending

85-150-139	Headingley Correctional Institution inmate alleges he is not being allowed to see a doctor.	Pending
85-150-140	Unhappy with agency's response to her request for help in finding her adopted son.	Pending
85-150-141	Headingley Correctional Institution inmate alleges receiving insufficient amounts of medication.	Not Supported
85-150-142	Brandon Correctional Institution inmate — custody dispute.	Information Supplied
85-150-143	Headingley Correctional Institution inmate alleges staff of Institution refusing to allow him access to outside counselling.	Not Supported
85-150-144	Feels Residential Care Licencing Office wants to close her facility.	Not Supported
85-150-145	Headingley Correctional Institution inmate concerned over restriction of privileges; also concerned over bail procedures.	Information Supplied
85-150-146	Headingley Correctional Institution inmate feels he should be in mental health facility rather than in jail.	Information Supplied
85-150-147	Headingley Correctional Institution inmate feels Institutional medical staff should grant permission for him to undergo surgery.	Not Supported
85-150-148	Alleged unfair treatment in Headingley Correctional Institution.	Not Supported
85-150-149	Headingley Correctional Institution inmate — refusal of Christmas Temporary Absence Pass.	Discontinued (Client)
85-150-150	Headingley Correctional Institution inmate complaining that protective custody remands get fewer privileges than regular remands.	Pending
85-150-152	Winnipeg Remand Centre inmate believes institutional staff not giving him his mail as soon as it is received.	Pending
85-150-153	Expressing concerns on behalf of operators of residential care homes re standards being required by Government.	Information Supplied
85-150-154	Alleges unfair treatment by supervisor during work placement program.	Pending
85-150-155	Objects to relative being forced to move from residential care home.	Pending
85-150-156	Brandon Correctional Institution inmate alleges that request to phone solicitor was denied.	Not Supported

85-150-157	Brandon Correctional Institution inmate concerned re treatment received as a juvenile.	Pending
85-150-158	Brandon Correctional Institution inmate concerned re mental condition of another inmate.	Information Supplied
85-150-159	Headingley Correctional Institution inmate alleges request to telephone his solicitor was refused.	Not Supported
85-150-160	Headingley Correctional Institution inmates — general complaints re conditions at Institution.	Pending
85-150-161	Headingley Correctional Institution inmate's request for dentures denied.	Pending
85-150-162	Headingley Correctional Institution inmate requests transfer.	Pending

Consumer and Corporate Affairs — 8

85-160-1	Denied direct seller licence.	Not Supported
85-160-2	Feels he should receive interest on bond being held by Government department.	Information Supplied
85-160-3	Alleges inappropriate handling of complaint by Consumers' Bureau.	Not Supported
85-160-4	Alleged inadequate investigation by Consumers' Bureau.	Pending
85-160-5	Inadequate investigation by Office of the Superintendent of Insurance.	Not Supported
85-160-6	Alleges security held past the two-year limitation period.	Not Supported
85-160-7	Alleges inappropriate handling of complaint by officer of Consumers' Bureau.	Pending
85-160-8	Feels Consumers' Bureau taking too long handling complaint.	Pending

Co-operative Development — 0

(170)

Corporations and Extra-Departmental — 18

85-180-1	Irregularities in hiring and awarding of contracts by Manitoba Lotteries Foundation.	Pending
85-180-2	Deposit request by Manitoba Telephone System too high.	Not Supported
85-180-3	Billing and demand for payment by Manitoba Telephone System.	Not Supported
85-180-4	Refusal by Manitoba Telephone System to repair her malfunctioning telephone.	Not Supported

85-180-5	Seeking compensation due to error by Manitoba Telephone System allegedly causing loss of business.	Not Supported
85-180-6	Refused telephone service on basis of roommate's outstanding account.	Resolved
85-180-7	Alleges Manitoba Telephone System switchboard operators will not forward her calls.	Pending
85-180-8	Alleges discrimination in hiring practice by Manitoba Telephone System.	Pending
85-180-10	Alleges inappropriate disconnection of service by Manitoba Hydro.	Resolved
85-180-11	Customers feel it is unfair that they are being required to give up multi-party premium telephone service.	Pending
85-180-12	Alleges inappropriate delay in repair of telephone.	Resolved
85-180-13	Feels telephone company policy requiring a $50.00 deposit is too restrictive.	Resolved
85-180-14	Allegedly being threatened with foreclosure of mortgage by Manitoba Agricultural Credit Corporation.	Assistance Rendered
85-180-15	Billing dispute with Manitoba Hydro.	Resolved
85-180-16	Alleges improper billing received from Manitoba Telephone System.	Pending
85-180-17	Billing dispute with Manitoba Telephone System.	Pending
85-180-18	Alleges improper termination of employment; also alleges internal mismanagement of Manitoba Hydro.	Pending
85-180-19	Billing dispute with Manitoba Telephone System.	Pending

Courts of Law — 13

85-190-1	Various problems re husband and Courts.	Declined
85-190-2	Inmate unable to obtain bail and wants to get out of Winnipeg Remand Centre.	Declined
85-190-3	Does not want to serve seven-month sentence in correctional facility.	Information Supplied
85-190-4	Questions Judge's decision not to postpone criminal proceedings until completion of civil proceedings.	Information Supplied
85-190-5	Disagrees with decision of Small Claims Court.	Declined
85-190-6	Unhappy with decision of Supreme Court of Canada re the Manitoba Language Reference.	Declined
85-190-7	Unhappy with conviction.	Information Supplied

85-190-8	Unhappy with decision of Courts.	Declined
85-190-9	Unhappy because Magistrate executed a Warrant for Committal under Mental Health Act.	Declined
85-190-10	Alleged lack of enforcement of maintenance order granted by Court in another province.	Pending
85-190-11	Seeking information from Court re Highway Traffic Act offence.	Pending
85-190-12	Being held in Remand Centre as a result of mix-up re Court charges and appearances.	Resolved
85-190-13	Victim of crime unable to get restitution ordered by Court.	Information Supplied

Crown Investments — 0

(200)

Culture, Heritage and Recreation — 0

(210)

Education — 12

85-220-1	Difficulties re television production course.	Pending
85-220-2	Feels college is being unfair in denying him entry into nursing course.	Not Supported
85-220-3	Alleges unfair dismissal from course at Keewatin Community College.	Not Supported
85-220-4	Delay in obtaining bursary through Student Aid.	Assistance Rendered
85-220-5	Feels he should be receiving a greater amount of compensation for transporting daughter to school.	Resolved
85-220-6	Feels Department should bear full responsibility for error re textbook order.	Not Supported
85-220-7	Inadequate investigation of local school problems.	Pending
85-220-8	Feels community college instructor not qualified to teach course; also feels she should not have been dismissed from course.	Not Supported
85-220-9	Monitor Inquest.	Pending
85-220-10	Alleges Department will not provide adequate bus service for his children.	Pending
85-220-11	Feels Student Aid should help him financially to relocate to another province.	Not Supported

85-220-12	Alleges inadequate investigation of her complaint against school division.	Pending

Employment Services and Economic Security — 38

85-230-1	Refusal by worker to provide damage deposit.	Resolved
85-230-2	Allegation that worker provided incorrect information to recipient.	Discontinued (Ombudsman)
85-230-3	Alleges conflict of interest at training plant.	Pending
85-230-4	Sponsored immigrant seeking financial assistance.	Pending
85-230-5	Confusing over social assistance entitlements.	Information Supplied
85-230-6	Failure by the Department to grant her assistance in locating accommodations.	Not Supported
85-230-7	Feels she is being unfairly treated re relocation expenses.	Resolved
85-230-8	Alleges unfair treatment by officials.	Pending
85-230-9	Refusal of funding under Student Social Allowances.	Not Supported
85-230-10	Requests information relating to the possibility of special funding for his nephew.	Assistance Rendered
85-230-11	Feels amount of assistance granted is insufficient.	Pending
85-230-12	Denial of social assistance benefits.	Resolved
85-230-13	Termination of financial assistance.	Discontinued (Client)
85-230-14	Feels he should not have had to reimburse Department for apparent overpayment of social allowances.	Not Supported
85-230-15	Withholding of social allowance cheque.	Information Supplied
85-230-16	Alleges improper deduction of amount for hydro billing.	Pending
85-230-17	Welfare cheque refused.	Information Supplied
85-230-18	Disputes the recovery of an overpayment.	Information Supplied
85-230-19	Objects to reduction of social allowances as result of receipt of Canada Pension.	Information Supplied
85-230-20	Alleges inadequate meal allowance.	Not Supported
85 230-21	Questions concerning repayment of social allowances to have lien removed from property.	Resolved
85-230-22	Utilities to be cut off due to non-payment of bills by Department.	Resolved

85-230-23	Alleges Department refusing to provide monthly assistance.	Assistance Rendered
85-230-24	Objecting to Garnishee Order.	Pending
85-230-25	Employer refusing to file Workers Compensation Board documentation.	Pending
85-230-26	Department refusing to pay for dental work.	Pending
85-230-27	Objects to lien being placed on property.	Information Supplied
85-230-28	Department refuses to pay for capping of son's tooth.	Information Supplied
85-230-29	Welfare cheque not received.	Resolved
85-230-30	Feels maintenance payments, apparently being made to Department, should be signed over to her.	Pending
85-230-31	Alleges lack of assistance by case worker.	Not Supported
85-230-32	Alleges improper cancellation of training program funding assistance.	Pending
85-230-33	Objects to the requirements by Economic Security Division regarding application for Student Social Allowances.	Pending
85-230-35	Feels Department treating recipient unfairly re settlement received from Criminal Injuries Compensation Board.	Declined
85-230-36	Objects to lien being placed on property.	Pending
85-230-37	Alleges unfair treatment by Economic Security office.	Assistance Rendered
85-230-38	Alleges improper withholding of Student Social Allowances payment.	Pending
85-230-39	Alleges unfair denial of assistance.	Pending

Energy and Mines — 3

85-240-1	Problem re claim for faulty windows installed under Hydro agreement.	Pending
85-240-2	Dispute over ownership of sand and gravel deposits.	Pending
85-240-3	Problems with work done under the Canadian Home Energy Conservation (CHEC) Program.	Pending

Environment and Workplace Safety and Health — 6

85-250-1	Concerned about newspaper advertisement and article re chemical poisoning.	Information Supplied
85-250-2	Dissatisfied with response that Department unable to determine who applied chemicals to a certain locality.	Pending

85-250-3	Concerns over handling of case by Worker Advisor Office.	Assistance Rendered
85-250-4	Alleges delay by Department in resolving problem.	Pending
85-250-5	Alleges Worker Advisor not acting on his problem.	Pending
85-250-6	Alleges Worker Advisor Office taking too long to handle his complaint.	Pending

Federal Departments and Agencies — 31

85-260-1	Loss of day parole.	Assistance Rendered
85-260-2	Inmate alleges he was punished for something he did not do.	Information Supplied
85-260-3	Difficulty re the funding of a civil litigation case against the Federal Government.	Declined
85-260-4	Problem re overpayment and termination of Unemployment Insurance Commission benefits.	Information Supplied
85-260-5	Serious allegations of inappropriate treatment by Revenue Canada.	Assistance Rendered
85-260-6	Alleges Royal Canadian Mounted Police treating him unfairly.	Assistance Rendered
85-260-7	Feels Royal Canadian Mounted Police should be providing more manpower to search for bodies.	Information Supplied
85-260-8	Unable to obtain assistance in rectifying shoddy workmanship by a contractor.	Assistance Rendered
85-260-9	Difficulties re overpayment of Unemployment Insurance Commission benefits.	Assistance Rendered
85-260-10	Disagrees with adjustment to tax credits.	Information Supplied
85-260-11	Unable to obtain response from the Canada Mortgage and Housing Corporation.	Assistance Rendered
85-260-12	Feels he should have received property tax rebate.	Discontinued (Client)
85-260-13	Difficulty obtaining proper forms and information from immigration officials.	Assistance Rendered
85-260-14	Problem re overpayment of Canada Pension.	Assistance Rendered
85-260-15	Inmate in Federal correctional facility alleging harsh treatment.	Information Supplied
85-260-16	Alleges disability payments under Canada Pension Plan not being received.	Assistance Rendered
85-260-17	Concern over health of son who is incarcerated in a Federal penitentiary.	Assistance Rendered

85-260-18	Denial of claim under assistance program — Workers' Metric Tools.	Information Supplied
85-260-19	Allegedly unable to get a parole hearing.	Information Supplied
85-260-20	Various matters relating to Court case.	Declined
85-260-21	Immigration and employment problems.	Information Supplied
85-260-22	Alleges problems at Federal penitentiary and with parole officer.	Assistance Rendered
85-290-23	Questions loss of earned remission.	Information Supplied
85-260-24	Denied Unemployment Insurance benefits.	Assistance Rendered
85-260-25	Problem re Unemployment Insurance benefits.	Information Supplied
85-260-26	Feels Federal department which approved home did not properly inspect it for Urea Formaldehyde Foam Insulation.	Information Supplied
85-260-27	Alleges improper construction of houses under rural and native housing program.	Assistance Rendered
85-260-28	Have not received family allowance cheques following change of address.	Resolved
85-260-29	Forms not mailed in time by Unemployment Insurance Commission; recurring delays in the process of her labour payment benefits.	Assistance Rendered
85-260-30	Inmate feels he is being unfairly kept in "the hole".	Assistance Rendered
85-260-31	Request for reimbursement for losses associated with installation of Urea Formaldehyde Foam Insulation.	Information Supplied
Finance — 3		
85-270-1	Apparent attempt by official to interfere with Ombudsman's investigation.	Pending
85-270-2	Alleges unfair and inequitable taxation of farm.	Not Supported
85-270-3	Delay in receiving tax credits.	Information Supplied
Government Services — 5		
85-280-1	Feels he should have been hired as security guard.	Discontinued (Client)
85-280-2	Alleges unfair treatment re construction contract.	Pending
85-280-3	Problems re transfer of land allegedly caused by Departmental officials.	Pending
85-280-4	Feels he was unfairly dismissed in 1979.	Declined
85-280-5	Alleges he was forced to retire.	Declined

Health — 113

85-290-1	Health Sciences Centre mental health patient concerned over being held at psychiatric facility and being "forced" to take medication.	Not Supported
85-290-2	Concern re elderly lady living on her own.	Assistance Rendered
85-290-3	Concerns over Government policy re the opening of new health facilities.	Information Supplied
85-290-4	Children have been refused service under provincial dental program.	Information Supplied
85-290-5	Alleges Department has information which they are using to his detriment by providing it to prospective employers.	Not Supported
85-290-6	Objecting to being admitted to psychiatric ward of the Health Sciences Centre.	Not Supported
85-290-7	Brandon Mental Health Centre patient questions admission to hospital and care being provided.	Resolved
85-290-8	Brandon Mental Health Centre patient wants to be discharged from hospital.	Not Supported
85-290-9	Claims Community Mental Health Program violated Residential Care Licencing policies.	Pending
85-290-10	Concerns re hiring practice in rural health unit.	Not Supported
85-290-11	Selkirk Mental Health Centre patient insists on receiving kosher foods.	Information Supplied
85-290-12	Health Sciences Centre mental health patient feels he was committed to mental health facility because of expressing concern about Mental Health Act.	Not Supported
85-290-13	Inadequate customer service by the films section of Information Resources Branch.	Resolved
85-290-14	Office of Alberta Ombudsman — request for information on Manitoba policies re health care coverage for immigrants.	Information Supplied
85-290-15	Brandon Mental Health Centre patient alleges Centre needs a "thorough shake-up and housecleaning of the entire staff".	Information Supplied
85-290-16	Alleges he was improperly committed to mental health centre by his father.	Not Supported
85-290-17	Alleges his wife contracted venereal disease while a patient in mental health centre.	Pending

85-290-18	Concerns re Home Orderly Program.	Resolved
85-290-19	Selkirk Mental Health Centre patient unable to obtain appropriate medical treatment.	Resolved
85-290-20	Feels she should not have to be re-hospitalized at mental health centre.	Information Supplied
85-290-21	Selkirk Mental Health Centre patient feels her status as a compulsory patient should be changed to voluntary.	Information Supplied
85-290-22	Disagrees with confinement in psychiatric ward of general hospital.	Not Supported
85-290-23	Allegations re serious problems at Selkirk Mental Health Centre.	Pending
85-290-24	Brandon Mental Health Centre patient requests discharge from hospital.	Information Supplied
85-290-25	Alleges she is not being paid appropriately for the kind of work she is being asked to do.	Pending
85-290-26	Health Sciences Centre mental health patient desires to be transferred to a different ward for more privacy.	Information Supplied
85-290-27	Health Sciences Centre mental health patient would like to have a certain male patient removed from her ward.	Information Supplied
85-290-28	Health Sciences Centre mental health patient alleges inappropriate treatment by staff.	Not Supported
85-290-29	Unable to obtain coverage for eye injury.	Pending
85-290-30	Difficulty obtaining Manitoba Health Services coverage.	Information Supplied
85-290-31	Feels Manitoba Health Services Commission has a responsibility to assist with health care costs for her mother.	Not Supported
85-290-32	Alleges psychiatric facility did not give help to son.	Not Supported
85-290-33	Concerns re Home Care Program.	Not Supported
85-290-34	Mental health patient does not feel she should be in psychiatric facility of Health Sciences Centre.	Information Supplied
85-290-35	Mental health patient making allegations about husband.	Information Supplied
85-290-36	Health Sciences Centre mental health patient wants to be released from psychiatric ward.	Information Supplied
85-290-37	Brandon Mental Health Centre patient objects to compulsory patient status.	Assistance Rendered

85-290-38	Health Sciences Centre mental health patient wants to be released from psychiatric facility.	Information Supplied
85-290-39	Health Sciences Centre mental health patient wants to be returned from psychiatric facility to correctional facility.	Pending
85-290-40	Brandon Mental Health Centre patient wants to get out of psychiatric facility.	Information Supplied
85-290-41	Health Sciences Centre mental health patient alleges improper confinement.	Not Supported
85-290-42	Brandon Mental Health Centre patient has concerns re stay in hospital and medication.	Information Supplied
85-290-43	Health Sciences Centre mental health patient concerned over care wife received while in hospital.	Pending
85-290-44	Selkirk Mental Health Centre patient complains of lack of instruction in Bahai religion at Centre.	Assistance Rendered
85-290-45	Health Sciences Centre mental health patient wants to be released.	Information Supplied
85-290-46	Brandon Mental Health Centre patient seeking document committing him as compulsory patient to Centre.	Not Supported
85-290-47	Does not want to be transferred to out-of-province psychiatric facility.	Information Supplied
85-290-48	Selkirk Mental Health Centre patient requests release from hospital.	Information Supplied
85-290-49	Selkirk Mental Health Centre patient wishes to be released from hospital.	Resolved
85-290-50	Selkirk Mental Health Centre patient wants review of status.	Information Supplied
85-290-51	Alleges funding refused for out-of-province health care.	Pending
85-290-52	Wage dispute.	Pending
85-290-53	Selkirk Mental Health Centre patient wants to be released.	Information Supplied
85-290-54	Concern over coverage for eyeglasses.	Information Supplied
85-290-55	Selkirk Mental Health Centre patient wants release.	Discontinued (Client)
85-290-56	Health Sciences Centre mental health patient wants to be released.	Information Supplied
85-290-57	Alleged mistreatment at hospital.	Declined
85-290-58	Selkirk Mental Health Centre patient has various complaints relating to the Centre.	Assistance Rendered

85-290-59	Health Sciences Centre mental health patient has concerns about treatment in psychiatric facility.	Discontinued (Client)
85-290-60	Alleged inappropriate treatment at psychiatric facilities.	Pending
85-290-61	Mental health patient wants discharge from Health Sciences Centre.	Resolved
85-290-62	Monitor Inquest.	Pending
85-290-63	Monitor Inquest.	Pending
85-290-64	Mental health patient wants to be discharged from Health Sciences Centre.	Information Supplied
85-290-65	Selkirk Mental Health Centre patient feels she is being asked to do too much work at the hospital.	Pending
85-290-66	Questions detention in psychiatric unit of Health Sciences Centre.	Information Supplied
85-290-67	Monitor Inquest.	Pending
85-290-68	Alleges committal to psychiatric unit of Health Sciences Centre was improper.	Not Supported
85-290-69	Alleges that his 13 year old son out-of-province requires supervision.	Resolved
85-290-70	Patient wants to be released from Selkirk Mental Health Centre.	Information Supplied
85-290-71	Patient wants discharge from psychiatric facility in general hospital.	Information Supplied
85-290-72	Mental health patient alleges being improperly detained in Health Sciences Centre.	Discontinued (Ombudsman)
85-290-73	Feels she has been improperly confined in psychiatric ward of Health Sciences Centre.	Not Supported
85-290-74	Selkirk Mental Health Centre patient wants to be released from hospital.	Information Supplied
85-290-75	Feels she was inappropriately committed to psychiatric ward of Health Sciences Centre.	Not Supported
85-290-76	Alleges balance of account not refunded to her upon discharge from Selkirk Mental Health Centre.	Not Supported
85-290-77	Health Sciences Centre mental health patient alleges staff not concerned about the rights of female patients.	Pending
85-290-78	Wants husband released from psychiatric unit.	Information Supplied
85-290-79	Health Sciences Centre mental health patient alleges inappropriate admission to psychiatric facility.	Not Supported
85-290-80	Protesting policy regarding out-of-province medical claims.	Pending

85-290-81	Wants to be released from mental health facility in Health Sciences Centre.	Discontinued (Ombudsman)
85-290-82	Patient of psychiatric ward of general hospital requesting interview; wants to be discharged.	Information Supplied
85-290-83	Complainant seeking help in obtaining hospital records.	Discontinued (Client)
85-290-84	Feels psychiatrist did not properly examine him before commitment to mental health facility.	Declined
85-290-85	Unspecified complaint against provincial psychiatrist.	Declined
85-290-86	Feels he should not have been admitted to psychiatric ward of hospital.	Declined
85-290-87	Alleges inappropriate service by Home Care Services.	Pending
85-290-88	Patient wants to be discharged from Selkirk Mental Health Centre.	Information Supplied
85-290-89	Selkirk Mental Health Centre patient wants to be discharged.	Information Supplied
85-290-90	Health Sciences Centre mental health patient wants to be discharged from hospital.	Information Supplied
85-290-91	Alleges unable to obtain past medical information.	Information Supplied
85-290-92	Selkirk Mental Health Centre patient wants discharge from hospital.	Information Supplied
85-290-93	Selkirk Mental Health Centre patient wants to be discharged from hospital.	Information Supplied
85-290-94	Wants her daughter to be discharged from Brandon Mental Health Centre.	Information Supplied
85-290-95	Patient has several concerns re care in psychiatric unit of general hospital.	Information Supplied
85-290-96	Health Sciences Centre mental health patient — unspecified and undecipherable complaint.	Discontinued (Ombudsman)
85-290-97	Health Sciences Centre mental health patient expressing concern over treatment of patients.	Not Supported
85-290-98	Concerns expressed by patient of psychiatric ward of Health Sciences Centre re the need for treatment.	Information Supplied
85-290-99	Alleges he was forced to take drugs he does not require.	Not Supported
85-290-100	Discharge arrangements for patient.	Assistance Rendered
85-290-101	Several personal problems presented by patient in psychiatric facility.	Pending

85-290-102	Health Sciences Centre mental health patient questioning her status as a patient in psychiatric ward.	Information Supplied
85-290-103	Concerned over treatment of son at mental health centre.	Pending
85-290-104	Allegations of racial overtones and other problems in management style of director.	Pending
85-290-105	Selkirk Mental Health Centre patient claims he was used for an experiment.	Not Supported
85-290-106	Alleges unfair termination of employment.	Pending
85-290-107	Selkirk Mental Health Centre patient alleges theft of food.	Discontinued (Client)
85-290-108	Brandon Mental Health Centre patient requests a change in status from compulsory to voluntary.	Information Supplied
85-290-109	Problem regarding criminally insane person being inappropriately designated to be held in a correctional facility.	Resolved
85-290-110	Selkirk Mental Health Centre patient wishes to be released from psychiatric facility; alleges doctor wants to keep him in for life.	Not Supported
85-290-111	Wants husband transferred to another hospital.	Information Supplied
85-290-112	Brandon Mental Health Centre patient having difficulties in obtaining funds to replace contact lens.	Not Supported
85-290-113	Alleges unfair dismissal from employment.	Pending

Highways and Transportation — 24

85-300-1	Questions concerning costs charged for building bridge.	Information Supplied
85-300-2	Feels he is being harassed because Driver and Vehicle Licencing Branch is requesting reports re alcohol problem.	Not Supported
85-300-3	Alleges failure to remove dangerous driving conviction from record.	Not Supported
85-300-4	Alleges inappropriate and unfair treatment by Driver and Vehicle Licencing Branch.	Not Supported
85-300-5	Complaining about not being able to receive service in French.	Not Supported
85-300-6	Objecting to recall of restricted and conditional licence.	Not Supported
85-300-7	Would like to know what conditions would have to be met in order for him to obtain a driver's licence.	Information Supplied

85-300-8	Alleges he paid too much for permit and cannot get a refund.	Resolved
85-300-9	Alleges unfair treatment by Driver and Vehicle Licencing Branch re request for psychiatric assessment.	Pending
85-300-10	Seeking reinstatement of driver's licence and registration privileges.	Not Supported
85-300-11	Feels policy re motorcycle licence premiums is unfair.	Pending
85-300-12	Employment as high school driver educator terminated without any reasons given.	Discontinued (Client)
85-300-13	Drainage problem.	Pending
85-300-14	Dissatisfied with hearing at Driver and Vehicle Licencing Branch.	Pending
85-300-15	Disagrees with request of Driver and Vehicle Licencing Branch for a report from Alcoholics Anonymous.	Not Supported
85-300-16	Alleges improper termination from driver training course.	Not Supported
85-300-17	Damage caused to car allegedly due to highway tarring.	Pending
85-300-18	Objects to driver's licence suspension.	Declined
85-300-19	Alleges that Licence Suspension Appeal Board has failed to respond to written correspondence.	Pending
85-300-20	Refund of licence fee for period of suspension refused.	Pending
85-300-21	Dispute over gravel allegedly claimed by Department.	Pending
85-300-22	Suspension of licence.	Information Supplied
85-300-23	Sub-contractor alleges Department acted inappropriately in paying out holdback to contractor.	Pending
85-300-24	Objects to demerit points as a result of conviction.	Declined
Housing — 53		
85-310-1	Alleges unfair treatment by Rentalsman's Office.	Not Supported
85-310-2	Refusal by Rentalsman to assist her in retrieving personal effects.	Assistance Rendered
85-310-3	Alleges appeal panel acted in a biased manner.	Pending
85-310-4	Delay in return of security deposit.	Resolved
85-310-5	Concerned about rent increase.	Information Supplied

85-310-6	Funds paid in trust to Rentalsman's Office not being released even though required repairs have been made.	Pending
85-310-7	Unhappy with arbitration decision made by Rentalsman's Office.	Not Supported
85-310-8	Disagrees with Rentalsman's Officer's interpretation of Landlord and Tenant Act.	Assistance Rendered
85-310-9	Concerned about advice given by Rentalsman's Office.	Discontinued (Client)
85-310-10	Does not feel she has been treated fairly by Rentalsman's Office.	Information Supplied
85-310-11	Alleges Rentalsman's Office not handling landlord/tenant dispute.	Pending
85-310-12	Complaint about Rentalsman's Office.	Discontinued (Client)
85-310-13	Unhappy with Rentalsman's decision in security deposit dispute.	Pending
85-310-14	Refused low rental housing by Winnipeg Regional Housing Authority.	Pending
85-310-15	Failure of landlord to complete renovations.	Pending
85-310-16	Alleges inappropriate treatment by Rentalsman's Office in matter of redirection of rent.	Pending
85-310-17	Did not receive proper eviction notice.	Not Supported
85-310-18	Concerned about attitude of Rentalsman's Officer and information given re landlord/tenant dispute.	Not Supported
85-310-19	Problem re handling of security deposit dispute.	Resolved
85-310-20	Alleges delay by Rentalsman's Office in enforcing repairs to premises.	Resolved
85-310-21	Feels unfairly treated by Rent Regulation Bureau in matter of rent increase since repairs are required to apartment.	Not Supported
85-310-22	Not happy with response of Rentalsman's Office to his complaint re repairs not being made to apartment.	Information Supplied
85-310-23	Concerned over the actions being taken by Rentalsman's Officer re landlord/tenant dispute.	Resolved
85-310-24	Feels Office of the Rentalsman has not provided assistance relating to unfair eviction.	Information Supplied
85-310-25	Landlord experiencing difficulties in request for rent increase.	Pending
85-310-26	Objecting to decision of Rent Regulation Bureau re rent increase.	Information Supplied

85-310-27	Return of security deposit to agent instead of to property owner.	Pending
85-310-28	Landlord objects to having to pay moving costs to evicted tenants.	Not Supported
85-310-29	Disagrees with Rentalsman's decision on security deposit.	Pending
85-310-30	Alleges unfair denial of housing accommodation through Housing Authority.	Not Supported
85-310-31	Landlord/tenant dispute — feels no action being taken.	Pending
85-310-32	Alleges illegal increase in rent.	Pending
85-310-33	Unhappy with Rentalsman's handling of security deposit dispute.	Pending
85-310-34	Alleges unfair treatment re application for housing unit.	Pending
85-310-35	Alleges eviction unfair.	Pending
85-310-36	Dissatisfied with work done under Critical Home Repair Program.	Pending
85-310-37	Alleges rent consistently late due to Rentalsman's involvement.	Pending
85-310-38	Alleges problems as a result of Manitoba Housing and Renewal Corporation constructing building and wall in variance with town's existing zoning regulations.	Pending
85-310-39	Alleges Housing Authority not taking action re their complaints about tenants living above them.	Pending
85-310-40	Alleges improper cancellation of application for Regional Housing.	Resolved
85-310-41	Not allowed to have pet in apartment.	Pending
85-310-42	Alleges inadequate repairs under Critical Home Repair Program.	Pending
85-310-43	Alleges delay in receiving housing unit.	Information Supplied
85-310-44	Alleges unfair treatment under home repair program.	Pending
85-310-45	Alleged unreasonable delay in settling security deposit dispute.	Pending
85-310-46	Inappropriate handling of tenant's complaint regarding repair bill.	Not Supported
85-310-47	Refusal by landlord to rent accommodation.	Pending
85-310-48	Problem involving work done under home improvement grant program	Pending
85-310-49	Unhappy with Rentalsman's handling of security deposit complaint.	Information Supplied

85-310-50	Problem re landlord's request for rent increase.	Pending
85-310-51	Alleges Rentalsman's Office not supporting her complaints.	Information Supplied
85-310-52	Concerns relating to allowed rent increases.	Pending
85-310-53	Unhappy with Rentalsman's handling of security deposit dispute.	Information Supplied

Industry. Trade and Technology — 0

(320)

Labour — 6

85-330-1	Feels Department should be able to assist him with his complaint re hiring practices at hospital.	Information Supplied
85-330-2	Seeking help to obtain money from Employment Standards Branch.	Pending
85-330-3	Feels Department treating him unfairly.	Discontinued (Client)
85-330-4	Feels he should be allowed to obtain copy of Fire Commissioner's report.	Pending
85-330-5	Alleges employee sharing false information.	Pending
85-330-6	Alleges unfair testing procedures for hairdressing licence.	Pending

Manitoba Hydro — 17

86-340-1	Problem re meter readings and billings.	Assistance Rendered
86-340-2	Proposed disconnection by Hydro.	Resolved
85-340-3	Alleges service disconnected before disconnection notice sent.	Not Supported
85-340-4	Being charged for bill which he claims he does not owe.	Resolved
85-340-5	Being billed large amount as a result of rating error when hydro hooked up.	Pending
85-340-6	Denial of compensation for damages resulting from power surge.	Discontinued (Client)
85-340-7	Objects to disconnection of hydro service.	Not Supported
85-340-8	Financial difficulties re payment of hydro bill.	Information Supplied
85-340-9	Alleges hydro to be disconnected in spite of agreement.	Information Supplied
85-340-10	Wants to have location of power line changed.	Pending
85-340-11	Alleges overbilled on account.	Pending
85-340-12	Billing dispute.	Pending
85-340-13	Billing problem.	Pending

85-340-14	Monitor Inquest.	Information Supplied
85-340-15	Feels Manitoba Hydro is responsible for damage to lawnmower resulting from alleged improperly protected equipment.	Resolved
85-340-16	Objects to location of hydro pole guy wire and transformer; also correspondence allegedly promised was not sent.	Pending
85-340-17	Allegation of improper disconnection of service.	Pending
Municipal Affairs — 5		
85-350-1	Alleges unfair assessment.	Information Supplied
85-350-2	Alleges Department failed to take action re compensation for flood damage.	Pending
85-350-3	Feels assessment of farmland unduly high.	Information Supplied
85-350-4	Alleges improper assessment.	Pending
85-350-5	Unhappy with Municipal Board's handling of rezoning issue.	Pending
Manitoba Public Insurance Corporation — 63		
85-360-1	Refusal of the Manitoba Public Insurance Corporation to put into writing a guarantee of payment for U-drive.	Assistance Rendered
85-360-2	Autopac claim dispute.	Assistance Rendered
85-360-3	Claim dispute and concern over conduct of adjuster.	Not Supported
85-360-4	Concerns over review of Autopac licence application.	Information Supplied
85-360-5	Refusal of claim and cancellation of insurance policy.	Not Supported
85-360-6	Dispute over claim for car rental.	Resolved
85-360-7	Autopac claim dispute.	Pending
85-360-8	Disputes accident liability assessment.	Pending
85-360-9	Claim dispute.	Information Supplied
85-360-10	Alleges unfair treatment by claims adjuster.	Pending
85-360-11	Autopac claim dispute.	Resolved
85-360-12	Seeking reimbursement for cost of purchasing automobile insurance because Manitoba Public Insurance Corporation coverage allegedly not accepted in Hawaii.	Pending
85-360-13	Dispute over liability assessment.	Pending
85-360-14	Autopac claim dispute.	Not Supported

85-360-15	Disagrees with decision of the Rates Appeal Board.	Not Supported
85-360-16	Autopac claim dispute.	Assistance Rendered
85-360-17	Dispute over reimbursement for U-drive claim.	Resolved
85-360-18	Autopac claim dispute.	Resolved
85-360-19	Corporation refuses to insure motorcycle.	Information Supplied
85-360-20	Autopac claim not settled.	Pending
85-360-21	Alleges unjust treatment by Autopac.	Pending
85-360-22	Concerns over manner in which Autopac handled claim.	Assistance Rendered
85-360-23	Delay in receiving no-fault benefits.	Pending
85-360-24	Autopac claim dispute.	Information Supplied
85-360-25	Dispute over payment for rental car.	Partially Resolved
85-360-26	Difficulties encountered in settling of claim.	Discontinued (Client)
85-360-27	Claim dispute.	Pending
85-360-28	Requests compensation for accident which occurred in 1973.	Pending
85-360-29	Claim dispute.	Pending
85-360-30	Unhappy with Manitoba Public Insurance Corporation's settlement re basement repairs.	Not Supported
85-360-31	Unable to resolve value of trailer following an accident.	Information Supplied
85-360-32	Autopac claim dispute.	Pending
85-360-33	Concern over Autopac procedures relating to write-offs.	Discontinued (Client)
85-360-34	Disputes assessment of liability.	Pending
85-360-35	Alleges delay in receiving appointment with Manitoba Public Insurance Corporation following a loss.	Assistance Rendered
85-360-36	Disputes Autopac's assessment of liability.	Pending
85-360-37	Autopac claim dispute.	Pending
85-360-38	Feels depreciation allowance is excessive.	Resolved
85-360-39	Autopac claim dispute.	Not Supported
85-360-40	Autopac claim dispute.	Pending
85-360-41	Denial of claim.	Pending
85-360-42	Claim dispute.	Pending
85-360-43	Alleges delay in settling claim for car repairs.	Pending

85-360-44	Delay in settling bodily injury claim.	Pending
85-360-45	Feels entitled to claim settlement.	Discontinued (Client)
85-360-46	Alleges improper handling of Autopac claim.	Pending
85-360-47	Alleges claim dispute.	Discontinued (Ombudsman)
85-360-48	Autopac claim dispute.	Pending
85-360-49	Feels suspension of driver's licence should be lifted.	Not Supported
85-360-50	Difficulties in obtaining settlement from Autopac.	Information Supplied
85-360-51	Feels claim has been unfairly denied by Autopac.	Pending
85-360-52	Incurred legal expenses because Manitoba Public Insurance Corporation allegedly did not act in good faith.	Pending
85-360-53	Feels he was misinformed by the Manitoba Public Insurance Corporation.	Discontinued (Client)
85-360-54	Delay in settling claim.	Resolved
85-360-55	Delay in receiving appointment at claims centre.	Resolved
85-360-56	Autopac claim dispute.	Pending
85-360-57	Alleges assessed a surcharge for accidents not his responsibility.	Pending
85-360-58	Unable to obtain licence to sell Autopac insurance.	Pending
85-360-59	Dispute over claim for total disability payments.	Pending
85-360-60	Dispute over settlement for loss of revenue while vehicle out of service.	Pending
85-360-61	Questions re imposition of surcharge.	Declined
85-360-62	Feels arbitration process unfair.	Pending
85-360-63	Feels proposed claim settlement is unreasonable.	Pending

Municipalities, Cities, Towns, Etc. — 28

85-370-1	Concern over pending tax sale.	Information Supplied
85-370-2	Expropriation of land for drainage purposes.	Information Supplied
85-370-3	Problem re property tax and assessment.	Assistance Rendered
85-370-4	Refusal to provide him with information on local sewer debentures.	Declined
85-370-5	Feels police department treating him unfairly.	Assistance Rendered
85-370-6	Alleges discrimination re employment training program.	Information Supplied

85-370-7	Objects to location of town well.	Information Supplied
85-370-8	Objects to requirement that he have a Class 4.0 driver's licence for employment.	Declined
85-370-9	Allegedly unable to secure return of personal property from police.	Assistance Rendered
85-370-10	Dispute over amount offered as settlement for damages allegedly caused by village.	Pending
85-370-11	Concerned about reduction in fire department staff and the resultant requirement that he obtain a Class 4.0 licence.	Information Supplied
85-370-12	Zoning problem affecting day care centre.	Information Supplied
85-370-13	Alleges excessive city hydro billing.	Assistance Rendered
85-370-14	Requests assistance in obtaining a refund of business tax in city.	Assistance Rendered
85-370-15	Alleges police acted improperly in turning over money taken from him to Crown.	Pending
85-370-16	Allegedly being followed by police.	Information Supplied
85-370-17	Alleges police exceeded jurisdiction.	Information Supplied
85-370-18	Not happy with local rules re underpinning of mobile homes.	Pending
85-370-19	Alleges mobile home underpinning by-laws are unreasonably and inconsistently applied by building inspector.	Pending
85-370-20	Granddaughter being refused permission to attend school of her choice.	Discontinued (Client)
85-370-21	Feels police should not have taken him to psychiatric facility for examination.	Declined
85-370-22	Difficulty in obtaining municipal assistance.	Information Supplied
85-370-23	Dissatisfied with procedures followed in naming street.	Information Supplied
85-370-24	Concerned about proposed plan of subdivision.	Information Supplied
85-370-25	Feels town should keep rear lane clear in winter to enable access to his property.	Information Supplied
85-370-26	Drainage problem allegedly resulting from work done by municipality to alleviate flooding.	Pending
85-370-27	Alleges police failed to return money seized from him upon arrest.	Information Supplied
85-370-28	Municipal social assistance terminated.	Pending

Natural Resources — 17

85-380-1	Concerned about change in regulation on goose hunting.	Declined
85-380-2	Objects to service and entrance fees being charged to private landowners in provincial park area.	Pending
85-380-3	Wants to repurchase land he sold to Department but objects to price being asked.	Assistance Rendered
85-380-4	Feels Department has responsibility to improve drainage system.	Pending
85-380-5	Fears he will not get summer work as fire ranger.	Pending
85-380-6	Alleges unfair denial of sick leave benefits.	Pending
85-380-7	Alleges harassment by conservation officer.	Pending
85-380-8	Feels better controls are required to prevent hunters from cruising for deer where hunting is prohibited.	Pending
85-380-9	Feels drainage problem is responsibility of Department.	Not Supported
85-380-10	Alleges unfair dismissal and unfair arbitration.	Declined
85-380-11	Alleges inappropriate action by park personnel.	Pending
85-380-12	Area residents feel they have been unfairly denied opportunity to obtain licence for wild rice production.	Pending
85-380-13	Drainage problem.	Pending
85-380-14	Objects to cutback in services in provincial parks.	Assistance Rendered
85-380-15	Alleges improper administration by Branch Director.	Pending
85-380-16	Denial of renewal of fall fishing licence.	Pending
85-380-17	Drainage problem.	Discontinued (Client)

Northern Affairs — 1

85-390-1	Feels Department's guidelines re water and sewer services are inappropriate.	Pending

Private Matters — 88

85-400-1	Dispute over son's dismissal from nursing program.	Declined
85-400-2	Alleges The Law Society refuses to assist him in collecting accounts receivable owing by lawyers.	Declined

85-400-3	Complaint against university personnel.	Declined
85-400-4	Employer/employee problem.	Information Supplied
85-400-5	Seeking "war compensation" for nephew whom she believes was a victim of genetic experiments.	Declined
85-400-6	Son has sold her house and she is being forced to move.	Assistance Rendered
85-400-7	Hospital nursing staff will not provide personal grooming care for patient.	Information Supplied
85-400-8	Requesting information on proper procedure for sale of land owned by a religious society.	Information Supplied
85-400-9	Unable to retrieve personal effects from a friend's apartment.	Information Supplied
85-400-10	Problem involving bank and securities.	Information Supplied
85-400-11	Complaint against doctor.	Information Supplied
85-400-12	Alleges unethical conduct by lawyer.	Information Supplied
85-400-13	Concerned about divorce proceedings involving mother and father.	Assistance Rendered
85-400-14	Dispute over land surveyor's bill.	Information Supplied
85-400-15	Request for information re Ombudsman's jurisdiction over quasi-judicial boards.	Information Supplied
85-400-16	Unable to obtain a receipt from former landlord.	Information Supplied
85-400-17	Billing dispute.	Assistance Rendered
85-400-18	Seeking guidance re amending out-of-province birth certificate.	Assistance Rendered
85-400-19	Questions concerning administration of her mother's affairs.	Information Supplied
85-400-20	Dispute over home allegedly improperly built by contractor.	Information Supplied
85-400-21	Seeking advice re personal problem.	Information Supplied
85-400-22	Bank threatened foreclosure on his mortgage.	Declined
85-400-23	Employer/employee problem.	Information Supplied
85-400-24	Dispute over administration of estate.	Information Supplied
85-400-25	One personal problem re a traffic violation and one re autombile repairs.	Information Supplied
85-400-26	Resident of another country seeking assistance to immigrate to Canada.	Information Supplied
85-400-27	Brandon Correctional Institution inmate has concerns over warrant for arrest.	Pending
85-400-28	Dispute over homestead property.	Information Supplied
85-400-29	Tenant vacated premises without giving proper notice to landlord.	Resolved

85-400-30	Unable to obtain refund of deposit paid for wedding photography.	Assistance Rendered
85-400-31	Unable to collect outstanding payment of wage claim.	Declined
85-400-32	Unable to recover funds from a special care facility.	Information Supplied
85-400-33	Landlord/tenant dispute over responsibility for sewer and water services.	Information Supplied
85-400-34	Dispute over community club rules re ringette.	Declined
85-400-35	Social worker seeking assistance on behalf of client re housing problem.	Information Supplied
85-400-36	Car seat belt will not accommodate child restraint seat.	Information Supplied
85-400-38	Dispute with dealer over condition of motor in recently purchased truck.	Information Supplied
85-400-39	Hearing affected as a result of aircraft noise.	Information Supplied
85-400-40	Numerous allegations re crimes being committed against children.	Discontinued (Client)
85-400-41	Concerns relating to business being placed into receivership.	Declined
85-400-42	Unable to obtain autopsy report.	Information Supplied
85-400-43	Wants something done to stop the circulation of chain letters.	Declined
85-400-44	Unable to obtain satisfaction of claim for damages to plane engine.	Information Supplied
85-400-45	Hallucinations and persecution complexes.	Information Supplied
85-400-46	Difficulties with employment.	Information Supplied
85-400-47	Dissatisfied with service of dental clinic.	Assistance Rendered
85-400-48	Dispute over Blue Cross coverage.	Information Supplied
85-400-49	Difficulties with purchase of typewriter.	Assistance Rendered
85-400-50	Alleges inadequate investigation by Department of Labour in Saskatchewan.	Assistance Rendered
85-400-51	Dissatisfied with installation of electric furnace.	Assistance Rendered
85-400-52	Problems in dealing with automobile manufacturer over mechanical defects in vehicle.	Information Supplied
85-400-53	Unable to obtain alleged incriminating letters as it relates to himself.	Declined
85-400-54	Complaint against content of television documentary.	Assistance Rendered

85-400-55	Feals The Law Society should look into his concerns.	Declined
85-400-56	Complaining about treatment received from doctors.	Information Supplied
85-400-57	Difficulties with lawyers.	Information Supplied
85-400-58	Car dealer allegedly refusing to repair damage to car still unde warranty.	Assistance Rendered
85-400-59	Feels he lost educational opportunity as a result of unfair treatment by police.	Declined
85-400-60	Concerned about The Law Society allegedly not responding to his request.	Declined
85-400-61	Alleges that Government is not following Supreme Court decision re French language reference.	Pending
85-400-62	Construction company allegedly refusing to pay sub-contractor.	Information Supplied
85-400-63	Objects to discontinuance of homemaker services.	Information Supplied
85-400-64	Alleges verbal and written abuse by director of a clinic.	Declined
85-400-65	Unable to obtain employment; also complaining about prices of vehicle parts.	Information Supplied
85-400-66	Unable to retain lawyers.	Discontinued (Client)
85-400-67	Alleges incompetence by laywers.	Assistance Rendered
85-400-68	Various complaints involving Courts, lawyers, Department of Attorney General and access to information.	Information Supplied
85-400-69	Alleges constant surveillance by unknown parties.	Discontinued (Ombudsman)
85-400-70	Complaint against a lawyer.	Information Supplied
85-400-71	Headingley Correctional Institution inmate writing to release frustration bout his life's experiences.	Declined
85-400-72	Dissatisfied with administration of voluntary social service organization.	Pending
85-400-73	Alleges negligence on part of lawyers.	Information Supplied
85-400-74	Objects to Government assisting in sponsorship of conference.	Declined
85-400-75	Inability in obtaining employment.	Declined
85-400-76	Seeking help in locating individual.	Declined
85-400-77	Company has not filled customer's mail order.	Pending
85-400-78	Alleges harassment by local police.	Discontinued (Ombudsman)

85-400-79	Concerned about the short time period allowed before the charging of a deferred payment penalty on gas bill.	Assistance Rendered
85-400-80	Alleges questionable transaction by automobile dealership.	Information Supplied
85-400-81	Problem involving landlord and other personal problems.	Assistance Rendered.
85-400-82	Difficulties in having company resolve problem with refrigerator bought two and a half years ago.	Pending
85-400-83	Family physician refusing to transfer x-rays to a chiropractor.	Information Supplied
85-400-84	Complaint against land surveyor.	Information Supplied
85-400-85	Questioning "what has happened to our country", apparently because of multi-lingual packaging on a product.	Information Supplied.
85-400-86	No specific complaint.	Declined
85-400-87	Complaint relating to conduct of a collection agency.	Pending
85-400-88	Questions practice followed by financial institution.	Pending
85-400-89	Unable to obtain refund of security deposit.	Pending

Provincial Auditor — 0

(410)

Urban Affairs — 0

(420)

Workers Compensation Board of Manitoba — 46

85-430-1	Compensation payments denied.	Pending
85-430-2	Dates when cheques are sent to him are irregular and unpredictable.	Assistance Rendered
85-430-3	Out of province request re information on Workers Compensation Board and medical review panels.	Information Supplied
85-430-4	Disputes Board's denial of claim.	Information Supplied
85-430-5	Possibility of benefits being terminated.	Information Supplied
85-430-6	Alleges indecision by Board re his claim for benefits.	Pending
85-430-7	Denial of Medical Review Panel.	Pending
85-430-8	Objects to procedures used by Board to collect assessment owing.	Pending
85-430-9	Termination of benefits improper.	Information Supplied

85-430-10	Compensation claim dispute.	Information Supplied
85-430-11	Feels Workers Compensation benefits should equal what he would be paid if Autopac insurance applied.	Not Supported
85-430-12	Compensation claim denied.	Pending
85-430-13	Alleges opinion of Board doctor being ignored.	Discontinued (Ombudsman)
85-430-14	Delay by Board in responding to claim for widow's benefits.	Not Supported
85-430-15	Dispute over compensation claim.	Pending
85-430-16	Compensation claim dispute.	Pending
85-430-17	Seeking help re Workers Compensation Board claims.	Pending
85-430-18	Complainant feels he has been treated unfairly by Board.	Not Supported
85-430-19	Feels entitled to further benefits.	Pending
85-430-20	Wants claim reassessed.	Pending
85-430-21	Questions decision of Board to consider him fully recovered from injury at work.	Pending
85-430-22	Delay in processing claim.	Resolved
85-430-23	Problems involving Workers Compensation claim.	Pending
85-430-24	Insufficient compensation.	Discontinued (Client)
85-430-25	Compensation benefits terminated.	Information Supplied
85-430-26	Alleges improper action by Board official, now deceased.	Discontinued (Ombudsman)
85-430-27	Alleges unprofessional conduct by Board official; denial of Medical Review Panel and concerned over length of time involved for Board to reach decision.	Not Supported
85-430-28	Board's refusal to pay disability allowance.	Pending
85-430-29	Alleges delay in receiving decision on eligibility for benefits.	Pending
85-430-30	Delay in receiving information re claim.	Resolved
85-430-31	Compensation cheque delayed.	Resolved
85-430-32	Feels entitled to further compensation.	Pending
85-430-33	Denial of compensation.	Pending
85-430-34	Compensation terminated.	Pending
85-430-35	Interest on late assessment payment.	Pending
85-430-36	Claim dispute.	Pending
85-430-37	Delay in receiving payment.	Information Supplied

85-430-38	Feels Compensation benefits have been unfairly terminated.	Pending
85-430-39	Disagrees with decision of Rehabilitation Committee re rehabilitation assistance.	Information Supplied
85-430-40	Arrears in Compensation payments.	Pending
85-430-41	Alleges improper advice given by Workers Compensation Board official.	Pending
85-430-42	Compensation benefits discontinued.	Pending
85-430-43	Compensation claim denied.	Pending
85-430-44	Feels wife of heart attack victim should be paid Compensation benefits.	Pending
85-430-45	Dissatisfied with treatment received from Board.	Pending
85-430-46	Concerned about reduction in benefits.	Pending

The Ombudsman Act

CHAPTER O45

THE OMBUDSMAN ACT.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Manitoba, enacts as follows:

Definitions.

1 In this Act

(a) "agency of the government" means any board, commission, association, or other body of persons, whether incorporated or unincorporated, all the members of which, or all the members of the board of management or board of directors of which,

(i) are appointed by an Act of the Legislature or by order of the Lieutenant Governor in Council, or

(ii) if not so appointed, in the discharge of their duties are public officers or servants of the Crown, or for the proper discharge of their duties are, directly or indirectly, responsible to the Crown;

(b) "department" means a department or branch of the executive government of the province;

(c) "minister" means a member of the Executive Council.

En. S.M., 1969, (2nd Sess.), c. 26, s. 1.

Appointment of Ombudsman.

2(1) The Lieutenant Governor in Council shall, on the recommendation of the Standing Committee of the Assembly on Privileges and Elections, appoint a Canadian citizen as Ombudsman for the Province of Manitoba.

Am. S.M. 1982, c. 51, s. 21.

Recommendations of committee on privileges and elections.

2(2) Where

(a) the office of Ombudsman is vacant; or

(b) the term of the Ombudsman in office will expire within 12 months; or

(c) the Ombudsman has tendered his resignation to take effect within 12 months;

the President of the Executive Council shall convene a meeting of the Standing Committee of the Assembly on privileges and elections which shall consider persons suitable and available to be appointed as Ombudsman and shall make recommendations in respect thereto to the President of the Executive Council.

En. S.M. 1980, c. 22, s. 1.

Meeting of Standing Committee.

2(3) The Standing Committee of the Assembly on Privileges and Elections may, for the purposes of performing its functions under this section, meet during session of the Legislature or during recess after prorogation.

Am. S.M. 1982, c. 51, s. 21.
En. S.M. 1969, (2nd Sess.), c. 26, s. 2.
Am. S.M. 1980, c. 22, s. 1; S.M. 1982, c. 51, s. 21.

Officer of Legislature.

3(1) The Ombudsman is an officer of the Legislature and is not eligible to be nominated for, elected as, or sit as, a member of the assembly.

Restrictions on employment.

3(2) The Ombudsman shall not hold any other public office or carry on any trade, business, or profession.

En. S.M., 1969, (2nd Sess.), c. 26, s. 3.

Term of office.

4(1) Unless he sooner resigns, dies or is removed from office, the Ombudsman shall hold office for six years from the date of his appointment, and a person may be re-appointed for a second term of six years, but not for more than two terms of six years.

Resignation.

4(2) The Ombudsman may resign his office in writing addressed to the Speaker of the assembly, or, if there is no Speaker or the Speaker is absent, to the clerk of the assembly.

Ombudsman over 65.

4(3) Where the Ombudsman reaches 65 years of age during his term of office, notwithstanding section 54 of The Civil Service Superannuation Act, he is not required to retire from the office but he shall, for the purposes of that Act, be deemed to have retired and been re-employed by the government for the balance of his unexpired term of office and may apply for and be granted a deferred allowance under section 27 of that Act.

En. S.M. 1980, c. 22, s. 2.
En. S.M. 1969, (2nd Sess.), c. 26, s. 4.
Am. S.M. 1980, c. 22, s. 2.

Removal or suspension.

5 The Lieutenant Governor in Council, on a resolution of the assembly carried by a vote of two-thirds of the members of the assembly voting thereon, may remove the Ombudsman from office or suspend him.

En. S.M., 1969, (2nd Sess.), c. 26, s. 5.

Suspension when Legislature not sitting.

6(1) At any time the Legislature is not in session, the Lieutenant Governor in Council may suspend the Ombudsman for disability, neglect of duty, misconduct or bankruptcy proved to the satisfaction of the Lieutenant Governor in Council, but the suspension shall not continue in force beyond the end of the next ensuing session of the Legislature.

Acting Ombudsman.

6(2) Where the office of the Ombudsman is vacant, or the Ombudsman is suspended under subsection (1), the Lieutenant Governor in Council shall appoint an acting Ombudsman to hold office until another Ombudsman is appointed under section 2 or the suspension has been dealt with in the assembly.

En. S.M., 1969, (2nd Sess.), c. 26, s. 6.

Salary.

7(1) The Ombudsman shall be paid a salary fixed by the Lieutenant Governor in Council, which shall be charged to and paid out of the Consolidated Fund.

Reduction of salary.

7(2) The salary of the Ombudsman shall not be reduced except on resolution of the assembly carried by a vote of two-thirds of the members of the assembly voting thereon.

En. S.M., 1969, (2nd Sess.), c. 26, s. 7.

Expenses.

8 The Ombudsman shall be paid such travelling and out of pocket expenses incurred by him in the performance of his duties as may be approved by the Provincial Auditor.

En. S.M., 1969, (2nd Sess.), c. 26, s. 8.

Application of Civil Service Superannuation Act.

9(1) The Ombudsman, and all persons employed under him, are employees within the meaning of The Civil Service Superannuation Act.

Application of Civil Service Act.

9(2) The Ombudsman is not subject to The Civil Service Act except section 44 thereof which applies to him but he is entitled to the privileges and perquisites of office, including holidays, vacations, sick leave and severance pay, of a member of the civil service who is not covered by a collective agreement.

En. S.M. 1980, c. 22, s. 3.

Employees under Ombudsman.

9(3) The Civil Service Act applies to persons employed under the Ombudsman.

En. S.M. 1969, (2nd Sess.), c. 26, s. 9.
Am. S.M. 1980, c. 22, s. 3.

Oath of office.

10 Before beginning to perform his duties, the Ombudsman shall take an oath before the Speaker of the Assembly or the Clerk of the Assembly that he will faithfully and impartially perform the duties of his office and that he will not, except as herein provided, divulge any information received by him under this Act.

En. S.M., 1969, (2nd Sess.), c. 26, s. 10.

Oath of staff.

11 Every person employed under the Ombudsman shall, before he begins to perform the duties, take an oath before the Ombudsman that he will not, except as herein provided, divulge any information received by him under this Act.

En. S.M., 1969, (2nd Sess.), c. 26, s. 11.

Secrecy.

12(1) The Ombudsman and every person employed under him shall maintain secrecy in respect of all matters that come to their knowledge in the exercise of their duties or functions under this Act.

Disclosure in reports.

12(2) Notwithstanding subsection (1) or any oath taken under this Act, the Ombudsman may disclose in a report made by him under this Act any matters which he considers necessary to disclose in order to establish grounds for his conclusions and recommendations.

En. S.M., 1969, (2nd Sess.), c. 26, s. 12.

Powers under Part V of Evidence Act.

13 The Ombudsman has the protection and powers of a commissioner appointed under Part V of The Manitoba Evidence Act; but section 87 of The Manitoba Evidence Act does not apply to the Ombudsman and no notice of appointment, of the purpose and scope of inquiries to be made by the Ombudsman, or of the time and place of the holding of any hearing or inquiry by the Ombudsman, need be published as required under section 88 of The Manitoba Evidence Act.

En. S.M., 1969, (2nd Sess.), c. 26, s. 13.

Delegation.

14(1) The Ombudsman may in writing delegate to any person any of his powers under this Act except the power of delegation under this section and the power to make a report under this Act.

Evidence of delegation.

14(2) A person purporting to exercise the power of the Ombudsman by virtue of the delegation under subsection (1) shall produce evidence of his authority to exercise that power when required to do so.

En. S.M., 1969, (2nd Sess.), c. 26, s. 14.

Investigations.

15 The Ombudsman may, on a written complaint or on his own initiative, investigate any decision or recommendation made, including any recommendation made to a minister, or any act done or omitted, relating to a matter of administration in or by any department or agency of the government, or by any officer, employee or member thereof, whereby any person is or may be aggrieved.

En. S.M., 1969, (2nd Sess.), c. 26, s. 15.

Reference by committees of assembly.

16(1) A committee of the assembly may at any time refer to the Ombudsman, for investigation and report by him, any petition or matter that is before that committee for consideration; and the Ombudsman shall

(a) subject to any special directions of the committee, investigate the petition or matter referred to him so far as it is within his jurisdiction; and

(b) make such report to the committee as he thinks fit.

Reference by Lieutenant Governor in Council.

16(2) The Lieutenant Governor in Council may at any time refer to the Ombudsman, for investigation and report by him, any matter relating to administration in or by any department or agency of the government, or by any officer, employee or member thereof; and the Ombudsman shall,

(a) subject to any special direction of the Lieutenant Governor in Council, investigate the matter referred to him so far as it is within his jurisdiction; and

(b) make such report to the Lieutenant Governor in Council as he thinks fit.

En. S.M., 1969, (2nd Sess.), c. 26, s. 16.

Exercise of powers, etc.

17 The Ombudsman may exercise and perform the powers, duties and functions conferred or imposed on him under this Act notwithstanding any provision of any other Act of the Legislature

(a) that any decision, recommendation, act or omission that he is investigating is final; or

(b) that no appeal lies in respect thereof; or

(c) that no proceeding or decision of the department, agency of the government, officer, employee, or person whose decision, recommendation, act or omission it is shall be challenged, reviewed, quashed or called in question.

En. S.M., 1969, (2nd Sess.), c. 26, s. 17.

Restriction on jurisdiction.

18 Nothing in this Act authorizes the Ombudsman to investigate

(a) any decision, recommendation, act, order or omission of the Legislature, the assembly, the Lieutenant Governor, a committee of the assembly, the Lieutenant Governor in Council, the Executive Council, or a committee of the Executive Council; or

(b) any order, decision or omission of a court, a judge of a court, a referee or master of a court, a magistrate or a justice of the peace made or given in any action or proceeding in the court, or before the judge, referee, master, magistrate or justice of the peace; or

(c) any award, decision, recommendation or omission of an arbitrator or board of arbitrators in an arbitration to which The Arbitration Act applies; or

(d) any decision, recommendation, act or omission in respect of which there is, under any Act a right of appeal or objection or a right to apply for a review on the merits of the case to any court or tribunal constituted by or under an Act of the Legislature, whether or not that right of appeal, objection or application has been exercised in the particular case and whether or not any time prescribed for the exercise of that right has expired, unless the Ombudsman is satisfied that in the particular case it would have been unreasonable to expect the complainant to resort to the tribunal or court, but in that case investigation shall not commence until after the time prescribed for the exercise of that right to appeal, object or apply, has expired.

En. S.M., 1969, (2nd Sess.), c. 26, s. 18.

Restriction on investigation by minister.

19(1) Where the Attorney-General certifies in writing to the Ombudsman that the investigation of a matter would be contrary to the public interest under the circumstances, the Ombudsman shall not investigate that matter, or, if he has commenced an investigation of that matter, he shall discontinue the investigation.

Report of certificate.

19(2) Where a certificate is given under subsection (1), the Ombudsman shall include that fact and a brief description of the circumstances of the matter in his next annual report to the assembly.

En. S.M., 1969, (2nd Sess.), c. 26, s. 19.

Questions relating to jurisdiction.

20 Where a question arises as to the jurisdiction of the Ombudsman to investigate any case or class of cases under this Act, he may apply to the Court of Queen's Bench for a declaratory order determining the question.

En. S.M., 1969, (2nd Sess.), c. 26, s. 20.

Complaints in writing.

21 Every complaint to the Ombudsman shall be made in writing.

En. S.M., 1969, (2nd Sess.), c. 26, s. 21.

Privacy of communication to Ombudsman.

22 Notwithstanding any Act, where a letter written by a person in custody on a charge or after conviction for an offence, or by an inmate in any hospital, mental hospital, home or institution operated by or under the direction of the government, or by any person in custody of another person for any other reason, is addressed to the

Ombudsman, it shall be forwarded immediately, unopened, to the Ombudsman by the person for the time being in charge of the place or institution where the writer of the letter is detained or in which he is an inmate, or by the person having custody of the writer.

En. S.M., 1969, (2nd Sess.), c. 26, s. 22.

Refusal to investigate.

23(1) The Ombudsman, in his discretion, may refuse to investigate or may cease to investigate a complaint if

(a) it relates to any decision, recommendation, act or omission of which the complainant has had knowledge for more than one year before the complaint is received by the Ombudsman; or

(b) in his opinion it is frivolous or vexatious or not made in good faith or concerns a trivial matter; or

(c) in his opinion, upon a balance between the public interest and the person aggrieved, it should not be investigated or the investigation should not be continued; or

(d) in his opinion the circumstances of the case do not require investigation.

Limitation on review of discretionary powers.

23(2) Where, in the course of or after an investigation of any decision, act or omission, done or omitted by a department or agency of the government, or any officer or employee thereof in the exercise of a discretion vested in that department, agency, officer, or employee, the Ombudsman is satisfied that the decision, act or omission is not clearly wrong or unreasonable, the Ombudsman shall make no further investigation of the matter and shall report to the complainant that he is so satisfied.

En. S.M., 1969, (2nd Sess.), c. 26, s. 23.

Report of refusal to investigate.

24 Where the Ombudsman decides not to investigate or to cease investigating a complaint he shall inform the complainant, and any other interested person, of his decision.

En. S.M., 1969, (2nd Sess.), c. 26, s. 24.

Notice of investigation.

25 Before investigating a complaint, the Ombudsman shall inform the deputy minister or the administrative head of the department or agency of the government affected of his intention to make the investigation.

En. S.M., 1969, (2nd Sess.), c. 26, s. 25.

Private investigations.

26 Every investigation by the Ombudsman under this Act shall be conducted in private.

En. S.M., 1969, (2nd Sess.), c. 26, s. 26.

Hearings.

27 The Ombudsman may hold hearings and hear or obtain information from any person and make inquiries as he thinks fit.

En. S.M., 1969, (2nd Sess.), c. 26, s. 27.

Right to be heard.

28 The Ombudsman is not required to hold a hearing and no person is entitled, as of right, to be heard by the Ombudsman; but, if at any time it appears to the Ombudsman that there is sufficient grounds for his making a report or recommendation in respect of any matter that may adversely affect any department, agency of the government, or person, he shall give to that department, agency, or person, an opportunity to make representations in respect of the matter, and the department, agency, or person may make representations in respect of the matter by counsel.

En. S.M., 1969, (2nd Sess.), c. 26, s. 28.

Consultation with minister.

29(1) The Ombudsman may, at any time during or after an investigation, consult any minister who is concerned in the matter of the investigation.

Reference to deputy minister.

29(2) Where, during or after an investigation, the Ombudsman is of the opinion that there is evidence of a breach of duty or misconduct by a department or agency of the government or any officer or employee thereof, he shall refer the matter to the deputy minister or administrative head of the department or agency of the government.

En. S.M., 1969, (2nd Sess.), c. 26, s. 29.

Evidence.

30(1) Subject to section 31, the Ombudsman may require any person who, in his opinion, is able to give any information relating to any matter being investigated by him

(a) to furnish the information to him; and

(b) to produce any document, paper or thing that in his opinion relates to the matter being investigated and that may be in the possession or under the control of that person;

whether or not that person is an officer, employee or member of the department or agency of the government and whether or not the document, paper or thing is in the custody or under the control of a department or agency of the government.

Examination on oath.

30(2) The Ombudsman may summon before him and examine on oath

(a) any person who is an officer or employee or member of any department or agency of the government and who in the opinion of the Ombudsman is able to give any information relating to any matter being investigated by him;

(b) any complainant; and

(c) any other person who in the opinion of the Ombudsman is able to give any information relating to any matter being investigated by him.

En. S.M., 1969, (2nd Sess.), c. 26, s. 30.

Restrictions on disclosures.

31 Where the Attorney-General certifies that the giving of any information or the answering of any question or the production of any document, paper or thing might involve the disclosure of

(a) the deliberations of the Lieutenant Governor in Council, the Executive Council, or any committee thereof; or

(b) proceedings of the Lieutenant Governor in Council, the Executive Council, or any committee thereof; or

(c) matters of a secret or confidential nature, or the disclosure of which would be injurious to the public interest;

the Ombudsman shall not require the information or answer to be given or the document, paper or thing to be produced, but shall report the giving of the certificate and the matter in respect of which it was given in his next annual report to the assembly.

En. S.M., 1969, (2nd Sess.), c. 26, s. 31.

Application of certain rules.

32(1) Subject to section 31, a rule of law that authorizes or requires the withholding of any document, paper or thing, or the refusal to answer any question, on the ground that the disclosure or answering would be injurious to the public interest does not apply in respect of any investigation by or proceedings before the Ombudsman.

Provisions relating to secrecy.

32(2) Subject to section 31, no provision of any Act of the Legislature requiring a person to maintain secrecy in relation to, or not to disclose information relating to, any matter shall apply in respect of an investigation by the Ombudsman; and no person required by the Ombudsman to furnish information or to produce any document, paper or thing or summoned by the Ombudsman to give evidence, shall refuse to furnish the information, produce the document, paper or thing, or to answer questions on the ground of any such provision.

Am. S.M. 1979, c. 28, s. 28.
En. S.M. 1969, (2nd Sess.), c. 26, s. 32.
Am. S.M. 1979, c. 28, s. 28.

Admissibility of evidence.

33 Except on the trial of a person for perjury, no statement made, or answer or evidence given by that or any other person in the course of an investigation by or any proceedings before the Ombudsman is admissible in evidence against any person in any court or at any inquiry or in any other proceedings, and no evidence respecting proceedings before the Ombudsman shall be given against any person.

En. S.M., 1969, (2nd Sess.), c. 26, s. 33.

Defence for certain offences.

34 No person is guilty of an offence against any other Act of the Legislature by reason of his compliance with any request or requirement of the Ombudsman to furnish information or produce any document, paper or thing, or by reason of answering any question in any investigation of the Ombudsman.

En. S.M., 1969, (2nd Sess.), c. 26, s. 34.

Right of entry.

35(1) For the purposes of this Act, the Ombudsman may at any time enter upon the premises occupied by any department or agency of the government and, subject to section 31, carry out therein any investigation within his jurisdiction.

Notice of entry.

35(2) Upon entering any premises under subsection (1), the Ombudsman shall notify the deputy minister or administrative head of the department or agency of the government that occupies the premises.

En. S.M., 1969, (2nd Sess.), c. 26, s. 35.

Report on investigation.

36(1) Where, after making an investigation under this Act, the Ombudsman is of opinion

- (a) that a decision, recommendation, act or omission that is the subject matter of the investigation appears to have been
  - (i) contrary to law, or
  - (ii) unreasonable, or
  - (iii) unjust, or
  - (iv) oppressive, or
  - (v) improperly discriminatory, or
  - (vi) in accordance with a practice or procedure that is or may be unreasonable, unjust, oppressive, or improperly discriminatory, or
  - (vii) based wholly or partly on a mistake of law or fact, or
  - (viii) wrong; or
- (b) that in making a decision or recommendation, or in doing or omitting an act, a power or right has been exercised
  - (i) for an improper purpose, or
  - (ii) on irrelevant grounds, or
  - (iii) on the taking into account of irrelevant considerations; or
- (c) that reasons should have been given for a decision, recommendation, act or omission that was the subject matter of the investigation;

the Ombudsman shall report his opinion and his reasons therefor to the appropriate minister and to the department or agency of the government concerned, and may make such recommendations as he thinks fit.

Nature of recommendations.

36(2) Without limiting the generality of subsection (1), in making a report under subsection (1), the Ombudsman may recommend

- (a) that a matter should be referred to the appropriate authority for further consideration; or
- (b) that an omission should be rectified; or
- (c) that a decision should be cancelled or varied; or
- (d) that any practice on which a decision, recommendation, act or omission was based should be altered or reviewed; or
- (e) that any law on which a decision, recommendation, act or omission was based should be reconsidered; or
- (f) that reasons should be given for any decision, recommendation, act or omission; or
- (g) that any other steps should be taken.

En. S.M., 1969, (2nd Sess.), c. 26, s. 36.

Notice of proposed steps.

37(1) Where the Ombudsman makes a recommendation under section 36, he may request the department or agency of the government to notify him within a specified time of the steps that it has taken or proposes to take to give effect to his recommendations.

Further report on recommendations.

37(2) If within a reasonable time after a request respecting recommendations is made under this section, no action is taken which seems to the Ombudsman to be adequate and appropriate, the Ombudsman, in his discretion, after considering the comments, if any, made by or on behalf of the department or agency of the government affected, may report the matter, including a copy of the report containing the recommendations, to the Lieutenant Governor in Council, and may thereafter mention the report in his next annual report to the assembly.

Comments included in report.

37(3) Any report made under subsection (2) shall include any comments made by or on behalf of the department or agency of the government upon the opinion or recommendation of the Ombudsman.

En. S.M., 1969, (2nd Sess.), c. 26, s. 37.

Report to complainant.

38 Where the Ombudsman makes an investigation on the basis of a complaint received by him, he shall report to the complainant, in such manner and at such time as he thinks proper, the result of the investigation.

En. S.M., 1969, (2nd Sess.), c. 26, s. 38.

Review of Ombudsman's decision.

39 No proceeding of the Ombudsman is void for want of form and, except on the ground of lack of jurisdiction, no proceedings or decisions of the Ombudsman shall be challenged, reviewed, quashed or called in question in any court.

En. S.M., 1969, (2nd Sess.), c. 26, s. 39.

Proceedings against Ombudsman prohibited.

40 No proceedings lie against the Ombudsman or against any person employed under him for anything he may do or report or say in the course of the exercise or performance, or intended exercise or performance of his functions and duties under this Act, unless it is shown he acted in bad faith.

En. S.M., 1969, (2nd Sess.), c. 26, s. 40.

Ombudsman not to be called as witness.

41 The Ombudsman and any person employed under him shall not be called to give evidence in any court or in any proceedings of a judicial nature in respect of anything coming to his knowledge in the exercise or performance of his functions and duties under this Act.

En. S.M., 1969, (2nd Sess.), c. 26, s. 41.

Annual report to Legislature.

42 The Ombudsman shall report annually to the assembly through the Speaker on the exercise and performance of his functions and duties under this Act.

En. S.M., 1969, (2nd Sess.), c. 26, s. 42.

Publication of reports.

43 In the public interest, or in the interest of a person, department or agency of the government, the Ombudsman may publish reports relating generally to the exercise and performance of his functions and duties under this Act or to any particular case investigated by him, whether or not the matters to be dealt with in the report have been the subject of the report made to the assembly under this Act.

En. S.M., 1969, (2nd Sess.), c. 26, s. 43.

Rules.

44(1) The assembly may make general rules for the guidance of the Ombudsman in the exercise and performance of his functions and duties under this Act.

Procedure of Ombudsman.

44(2) Subject to this Act and any rules made under subsection (1), the Ombudsman may determine his procedure.

En. S.M., 1969, (2nd Sess.), c. 26, s. 44.

Offence and penalty.

45 Every person who

(a) without lawful justification or excuse wilfully obstructs, hinders, or resists the Ombudsman or any other person in the exercise or performance of his functions and duties under this Act; or

(b) without lawful justification or excuse refuses or wilfully fails to comply with any lawful requirement of the Ombudsman or any other person under this Act; or

(c) wilfully makes any false statement to or misleads or attempts to mislead the Ombudsman or any other person in the exercise or performance of his functions and duties under this Act;

is guilty of an offence and liable, on summary conviction, to a fine of not more than five hundred dollars or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.

En. S.M., 1969, (2nd Sess.), c. 26, s. 45.

Additional remedies.

46 The provisions of this Act are in addition to the provisions of any other Act or rule of law under which any remedy or right of appeal or objection is provided for any person, or any procedure is provided for the inquiry into or investigation of any matter, and nothing in this Act limits or affects any such remedy or right of appeal or objection or procedure.

En. S.M., 1969, (2nd Sess.), c. 26, s. 46.

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